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# BILLS,

## PUBLIC:

*FIVE VOLUMES.*

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—*(1.)*—

ACCIDENTS COMPENSATION

TO

DUCHY OF CORNWALL.

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Session

6 *February* —— 7 *August* 1862.

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VOL. I.

1862.

# BILLS,

## PUBLIC:

FIFTH VOLUME.

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ACCIDENTS COMPENSATION

TO

DUCHY OF CORNWALL.

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Session

6 February —— 7 August 1862.

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VOL. I.

1862.

# BILLS:

## 1862.

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A

# BILL

TO

## Amend the Law relating to the Recovery of Damages by Workmen and Servants, and of Compensation by the Families of Workmen and Servants killed by Accidents.

WHEREAS it is expedient to amend the Rule of Law by which Workmen and Servants are debarred from recovering Damages from their Masters for Injuries suffered in certain Cases: And whereas it is also expedient to extend the Provisions of an Act passed in the Session of Parliament held in the Ninth and Tenth Years of Her Majesty's Reign, intituled "An Act "for compensating the Families of Persons killed by Accidents," to the Families of Workmen and Servants killed in certain Cases, as herein-after provided: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. Whenever any Workman or Servant shall be injured in consequence of his Master, or any other Person employed by his Master, not doing any Act or providing any Thing which may be requisite or proper, or doing any Act or providing any Thing which may be improper, Workmen and Servants to recover Damages from Masters in certain

 in

Cases for Injuries.

in or for carrying on the Undertaking, Work, or Business in or about which such Workman or Servant shall be employed by or on account of his Master, then such Workman or Servant shall be entitled to recover from his Master Damages for such Injury by an Action at Law: Provided always, such Injury shall not have been suffered in consequence of any wilful Act or Omission of a Fellow Workman or Fellow Servant for which such Fellow Workman or Fellow Servant is punishable as a Criminal Offence; and provided also, such Action shall be commenced within *Twelve* Calendar Months after such Injury shall have occurred.

Proviso.

In case of Death of Workman or Servant the same Person to be liable for an Action for Damages as if Death had not ensued.

**2.** Whenever the Death of any Workman or Servant shall be caused by a wrongful Act, Neglect, or Default, which, if Death had not ensued, would have entitled such Workman or Servant to recover Damages under this Act, then and in every such Case the Person who would have been liable to an Action for Damages if Death had not ensued shall be liable to an Action for Damages according to the Provisions of the said recited Act.

A

# BILL

TO

## Allow certain Persons to make Affirmations in all Cases where an Oath is or shall be required.

Preamble.

WHEREAS there are in Her Majesty's Dominions certain Persons who, from conscientious Motives, refuse or are unwilling, or who, from Defect or Want of Religious Knowledge and Belief, are unable, to take an Oath in Courts of Justice and other Places, and in consequence thereof are exposed to great Losses and Inconveniences in their Trade and Concerns, and are subject to Fines and to Imprisonment for Contempt of Court; and the Community at large are deprived of the Benefit of their Testimony: And whereas it is therefore expedient that such Persons respectively should be relieved in manner herein-after mentioned: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same as follows:

Certain Persons to be allowed to make Affirmation when an Oath is now required.

**1.** If any Person who shall be required on any lawful Occasion to take an Oath in any Case where an Oath is or shall be required, either by the Common Law, or by any Act of Parliament already made or hereafter to be made, shall refuse or be unwilling, from alleged conscientious Motives, to be sworn, it shall be lawful for the Court or Judge or other presiding Officer, or for the Person in each Case duly

duly authorized to administer Oaths, as the Case may be, upon being satisfied of the Sincerity of such Objection, to permit such Person, instead of being sworn, to make his or her solemn Affirmation or Declaration in the Words following; *videlicet*,

'I *A.B.* do solemnly, sincerely, and truly affirm and declare that the taking of an Oath is, according to my Religious Belief, unlawful;
'and I do also solemnly, sincerely, and truly affirm and declare, *&c.*

Which solemn Affirmation and Declaration shall be of the same Force and Effect as if such Person had taken an Oath in the usual Form.

Children and Persons of defective religious Belief to testify on simple Affirmation.

**2.** Any Person who by reason of immature Age or Want of Religious Belief, or who by reason of Defect of Religious Belief, ought not, in the Opinion of the Court or Judge or other presiding Officer, or Person duly authorized to administer Oaths, to be admitted to give Evidence on Oath or solemn Affirmation, shall be admitted to give Evidence on a simple Affirmation declaring that he will speak the Truth, the whole Truth, and nothing but the Truth.

Provisions as to Witness to apply to Affidavits, &c.

**3.** The Provisions in the last preceding Section as to Witnesses shall apply to Testimony given by Affidavit or otherwise in Writing, as well as to Testimony orally delivered.

Punishment for making false Affirmation.

**4.** If any Person making any Affirmation or Declaration under the Provisions of this Act shall, wilfully, falsely, and corruptly affirm or declare any Matter or Thing which, if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, every such Person so offending shall incur the same Penalties as by the Laws and Statutes of this Kingdom are or may be enacted or provided against Persons convicted of wilful and corrupt Perjury.

**5.** This Act may be cited for all Purposes as "The Affirmations Act, 1862."

A

# BILL

TO

## Carry into effect the Treaty between Her Majesty and the United States of America for the Suppression of the African Slave Trade.

WHEREAS on the Seventh Day of April in the Year of our Lord One thousand eight hundred and sixty-two a Treaty was concluded and signed at Washington, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, for the Suppression of the African Slave Trade, whereby it was agreed as follows: Preamble.

Treaty between Her Majesty and the United States of America, for the Suppression of the African Slave Trade. Signed at Washington, April 7, 1862. Ratifications exchanged at London, May 20, 1862.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America being desirous to render more effectual the Means hitherto adopted for the Suppression of the Slave Trade carried on upon the Coast of Africa, have deemed it expedient to conclude a Treaty for that

Purpose, and have named as their Plenipotentiaries; that is to say,

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Richard Bickerton Pemell Lord Lyons, a Peer of Her United Kingdom, a Knight Grand Cross of Her Most Honourable Order of the Bath, and Her Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

And the President of the United States of America, William H. Seward, Secretary of State;

Who, after having communicated to each other their respective full Powers, found in good and due Form, have agreed upon and concluded the following Articles.

Article I.—The Two High Contracting Parties mutually consent that those Ships of their respective Navies which shall be provided with special Instructions for that Purpose, as hereinafter mentioned, may visit such Merchant Vessels of the Two Nations as may, upon reasonable Grounds, be suspected of being engaged in the African Slave Trade, or of having been fitted out for that Purpose, or of having, during the Voyage on which they are met by the said Cruizers, been engaged in the African Slave Trade, contrary to the Provisions of this Treaty; and that such Cruizers may detain, and send or carry away, such Vessels, in order that they may be brought to Trial in the Manner hereinafter agreed upon.

In order to fix the reciprocal Right of Search in such a Manner as shall be adapted to the Attainment of the Object of this Treaty, and at the same Time avoid Doubts, Disputes, and Complaints, the said Right of Search shall be understood in the Manner and according to the Rules following:—

First.—It shall never be exercised except by Vessels of War, authorized expressly for that Object, according to the Stipulations of this Treaty.

Secondly.—The Right of Search shall in no Case be exercised with respect to a Vessel of the Navy of either of the Two Powers, but shall be exercised only as regards Merchant Vessels; and it shall not be exercised by a Vessel of War of either Contracting Party within the Limits of a Settlement or Port, nor within the territorial Waters, of the other Party.

Thirdly.—Whenever a Merchant Vessel is searched by a Ship of War, the Commander of the said Ship shall, in the Act of so doing, exhibit to the Commander of the Merchant Vessel the special Instructions by which he is duly authorized to search, and shall deliver to such Commander a Certificate, signed by himself,

himself, stating his Rank in the Naval Service of his Country, and the Name of the Vessel he commands, and also declaring that the only Object of the Search is to ascertain whether the Vessel is employed in the African Slave Trade, or is fitted up for the said Trade. When the Search is made by an Officer of the Cruizer who is not the Commander, such Officer shall exhibit to the Captain of the Merchant Vessel a Copy of the before-mentioned special Instructions, signed by the Commander of the Cruizer, and he shall in like Manner deliver a Certificate, signed by himself, stating his Rank in the Navy, the Name of the Commander by whose Orders he proceeds to make the Search, that of the Cruizer in which he sails, and the Object of the Search, as above described. If it appears from the Search that the Papers of the Vessel are in regular Order, and that it is employed on lawful Objects, the Officer shall enter in the Log Book of the Vessel that the Search has been made in pursuance of the aforesaid special Instructions, and the Vessel shall be left at liberty to pursue its Voyage. The Rank of the Officer who makes the Search must not be less than that of Lieutenant in the Navy, unless the Command, either by reason of Death or other Cause, is at the Time held by an Officer of inferior Rank.

Fourthly.—The reciprocal Right of Search and Detention shall be exercised only within the Distance of Two hundred Miles from the Coast of Africa, and to the Southward of the Thirty-second Parallel of North Latitude, and within Thirty Leagues from the Coast of the Island of Cuba.

Article II.—In order to regulate the Mode of carrying the Provisions of the preceding Article into execution, it is agreed—

First.—That all the Ships of the Navies of the Two Nations which shall be hereafter employed to prevent the African Slave Trade shall be furnished by their respective Governments with a Copy of the present Treaty, of the Instructions for Cruizers annexed thereto, marked A, and of the Regulations for the Mixed Courts of Justice annexed thereto, marked B, which Annexes respectively shall be considered as integral Parts of the present Treaty.

Secondly.—That each of the High Contracting Parties shall from Time to Time communicate to the other the Names of the several Ships furnished with such Instructions, the Force of each, and the Names of their several Commanders. The said Commanders shall hold the Rank of Captain in the Navy, or at least that of Lieutenant; it being nevertheless understood that the Instructions originally issued to an

Officer holding the Rank of Lieutenant of the Navy, or other superior Rank, shall, in case of his Death or temporary Absence, be sufficient to authorize the Officer on whom the Command of the Vessel has devolved to make the Search, although such Officer may not hold the aforesaid Rank in the Service.

Thirdly.—That if at any Time the Commander of a Cruizer of either of the Two Nations shall suspect that any Merchant Vessel under the Escort or Convoy of any Ship or Ships of War of the other Nation carries Negroes on board, or has been engaged in the African Slave Trade, or is fitted out for the Purpose thereof, the Commander of the Cruizer shall communicate his Suspicions to the Commander of the Convoy, who, accompanied by the Commander of the Cruizer, shall proceed to the Search of the suspected Vessel; and in case the Suspicions appear well founded, according to the Tenor of this Treaty, then the said Vessel shall be conducted or sent to One of the Places where the Mixed Courts of Justice are stationed, in order that it may there be adjudicated upon.

Fourthly.—It is further mutually agreed, that the Commanders of the Ships of the Two Navies respectively, who shall be employed on this Service, shall adhere strictly to the exact Tenor of the aforesaid Instructions.

Article III.—As the Two preceding Articles are entirely reciprocal, the Two High Contracting Parties engage mutually to make good any Losses which their respective Subjects or Citizens may incur by an arbitrary and illegal Detention of their Vessels; it being understood that this Indemnity shall be borne by the Government whose Cruizer shall have been guilty of such arbitrary and illegal Detention; and that the Search and Detention of Vessels specified in the First Article of this Treaty shall be effected only by Ships which may form Part of the Two Navies respectively, and by such of those Ships only as are provided with the special Instructions annexed to the present Treaty, in pursuance of the Provisions thereof. The Indemnification for the Damages of which this Article treats shall be paid within the Term of One Year, reckoning from the Day in which the Mixed Court of Justice pronounces its Sentence.

Article IV.—In order to bring to Adjudication with as little Delay and Inconvenience as possible the Vessels which may be detained according to the Tenor of the First Article of this Treaty, there shall be established, as soon as may be practicable, Three Mixed Courts of Justice, formed of an equal Number of

of Individuals of the Two Nations, named for this Purpose by their respective Governments. These Courts shall reside, One at Sierra Leone, One at the Cape of Good Hope, and One at New York.

But each of the Two High Contracting Parties reserves to itself the Right of changing, at its Pleasure, the Place of Residence of the Court or Courts held within its own Territories.

These Courts shall judge the Causes submitted to them according to the Provisions of the present Treaty, and according to the Regulations and Instructions which are annexed to the present Treaty, and which are considered an integral Part thereof; and there shall be no Appeal from their Decision.

Article V.—In case the Commanding Officer of any of the Ships of the Navies of either Country, duly commissioned according to the Provisions of the First Article of this Treaty, shall deviate in any respect from the Stipulations of the said Treaty, or from the Instructions annexed to it, the Government which shall conceive itself to be wronged thereby shall be entitled to demand Reparation; and in such Case the Government to which such Commanding Officer may belong binds itself to cause Inquiry to be made into the Subject of the Complaint, and to inflict upon the said Officer a Punishment proportioned to any wilful Transgression which he may be proved to have committed.

Article VI.—It is hereby further mutually agreed, that every British or American Merchant Vessel which shall be searched by virtue of the present Treaty may lawfully be detained, and sent or brought before the Mixed Courts of Justice established in pursuance of the Provisions thereof, if in her Equipment there shall be found any of the Things herein-after mentioned; namely,

1st.—Hatches with open Gratings, instead of the close Hatches which are usual in Merchant Vessels.

2d.—Divisions or Bulkheads in the Hold or on Deck in greater Number than are necessary for Vessels engaged in lawful Trade.

3d.—Spare Plank fitted for laying down as a Second or Slave Deck.

4th.—Shackles, Bolts, or Handcuffs.

5th.—A larger Quantity of Water in Casks or in Tanks than is requisite for the Consumption of the Crew of the Vessel as a Merchant Vessel.

6th.—An extraordinary Number of Water Casks, or of other Vessels for holding Liquid; unless the Master shall produce a Certificate from the Custom House at the Place from which he cleared outwards, stating that a sufficient Security had been given by the Owners of such Vessel that such extra Quantity of Casks or of other Vessels should be used only to hold Palm Oil, or for other Purposes of lawful Commerce.

7th.—A greater Number of Mess Tubs or Kids than requisite for the Use of the Crew of the Vessel as a Merchant Vessel.

8th.—A Boiler or other Cooking Apparatus of an unusual Size, and larger or capable of being made larger than requisite for the Use of the Crew of the Vessel as a Merchant Vessel, or more than One Boiler or other Cooking Apparatus of the ordinary Size.

9th.—An extraordinary Quantity of Rice, of the Flour of Brazil, of Manioc or Cassada commonly called Farinha, of Maize, or of Indian Corn, or of any other Article of Food whatever, beyond the probable Wants of the Crew; unless such Rice, Flour, Farinha, Maize, Indian Corn, or other Article of Food be entered on the Manifest as Part of the Cargo for Trade.

10th.—A Quantity of Mats or Matting greater than is necessary for the Use of the Crew of the Vessel as a Merchant Vessel; unless such Mats or Matting be entered on the Manifest as Part of the Cargo for Trade.

If it be proved that any One or more of the Articles above specified is or are on board, or have been on board during the Voyage in which the Vessel was captured, that Fact shall be considered as primâ facie Evidence that the Vessel was employed in the African Slave Trade, and she shall in consequence be condemned and declared lawful Prize; unless the Master or Owners shall furnish clear and incontrovertible Evidence, proving to the Satisfaction of the Mixed Court of Justice that at the Time of her Detention or Capture the Vessel was employed in a lawful Undertaking, and that such of the different Articles above specified as were found on board at the Time of Detention, or as may have been embarked during the Voyage on which she was engaged when captured, were indispensable for the lawful Object of her Voyage.

Article VII.—If any One of the Articles specified in the preceding Article as Grounds for Condemnation should be found on board a Merchant Vessel, or should be proved to have been on board of her during the Voyage on which she was captured,

no

no Compensation for Losses, Damages, or Expenses consequent upon the Detention of such Vessel shall in any Case be granted, either to the Master, the Owner, or any other Person interested in the Equipment or in the Lading, even though she should not be condemned by the Mixed Court of Justice.

ARTICLE VIII.—It is agreed between the Two High Contracting Parties, that in all Cases in which a Vessel shall be detained under this Treaty by their respective Cruizers as having been engaged in the African Slave Trade, or as having been fitted out for the Purposes thereof, and shall consequently be adjudged and condemned by One of the Mixed Courts of Justice to be established as aforesaid, the said Vessel shall, immediately after its Condemnation, be broken up entirely and shall be sold in separate Parts, after having been so broken up; unless either of the Two Governments should wish to purchase her for the Use of its Navy at a Price to be fixed by a competent Person chosen for that Purpose by the Mixed Court of Justice; in which case the Government whose Cruizer shall have detained the condemned Vessel shall have the First Option of Purchase.

ARTICLE IX.—The Captain, Master, Pilot, and Crew of any Vessel condemned by the Mixed Courts of Justice shall be punished according to the Laws of the Country to which such Vessels belongs, as shall also the Owner or Owners, and the Persons interested in her Equipment or Cargo, unless they prove that they had no Participation in the Enterprize.

For this Purpose, the Two High Contracting Parties agree that, in so far as it may not be attended with grievous Expense and Inconvenience, the Master and Crew of any Vessel which may be condemned by a Sentence of One of the Mixed Courts of Justice, as well as any other Persons found on board the Vessel, shall be sent and delivered up to the Jurisdiction of the Nation under whose Flag the condemned Vessel was sailing at the Time of Capture; and that the Witnesses and Proofs necessary to establish the Guilt of such Master, Crew, or other Persons, shall also be sent with them.

The same Course shall be pursued with regard to Subjects or Citizens of either Contracting Party who may be found by a Cruizer of the other on board a Vessel of any Third Power, or on board a Vessel sailing without Flag or Papers, which may be condemned by any competent Court for having engaged in the African Slave Trade.

ARTICLE X.—The Negroes who are found on board of a Vessel condemned by the Mixed Courts of Justice, in conformity with the Stipulations of this Treaty, shall be placed at the Disposal of the Government whose Cruizer has made the Capture. They shall be immediately set at liberty, and shall remain free, the Government to whom they have been delivered guaranteeing their Liberty.

ARTICLE XI.—The Acts or Instruments annexed to this Treaty, and which it is mutually agreed shall form an integral Part thereof, are as follows:

(A.) Instructions for the Ships of the Navies of both Nations destined to prevent the African Slave Trade.

(B.) Regulations for the Mixed Courts of Justice.

ARTICLE XII.—The present Treaty shall be ratified, and the Ratifications thereof shall be exchanged at London in Six Months from this Date, or sooner if possible. It shall continue and remain in full Force for the Term of Ten Years from the Day of Exchange of the Ratifications, and further, until the End of One Year after either of the Contracting Parties shall have given Notice to the other of its Intention to terminate the same; each of the Contracting Parties reserving to itself the Right of giving such Notice to the other at the End of said Term of Ten Years. And it is hereby agreed between them, that on the Expiration of One Year after such Notice shall have been received by either from the other Party this Treaty shall altogether cease and determine.

In witness whereof the respective Plenipotentiaries have signed the present Treaty, and have thereunto affixed the Seal of their Arms.

Done at Washington the Seventh Day of April in the Year of our Lord One thousand eight hundred and sixty-two.

(L.S.) LYONS.

(L.S.) WILLIAM H. SEWARD.

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*Annex (A.) to the Treaty between Great Britain and the United States of America, for the Suppression of the African Slave Trade, signed at Washington on the Seventh Day of April One thousand eight hundred and sixty-two.*

*Instructions for the Ships of the British and United States Navies employed to prevent the African Slave Trade.*

ARTICLE I.—The Commander of any Ship belonging to the British or United States Navy which shall be furnished with these

these Instructions shall have a Right to search and detain any British or United States Merchant Vessel which shall be actually engaged or suspected to be engaged in the African Slave Trade, or to be fitted out for the Purposes thereof, or to have been engaged in such Trade during the Voyage in which she may be met with by such Ship of the British or United States Navy; and such Commander shall thereupon bring or send such Merchant Vessel (save in the Case provided for in Article V. of these Instructions) as soon as possible for Judgment before One of the Three Mixed Courts of Justice established in virtue of the IVth Article of the said Treaty; that is to say,

If the Vessel shall be detained on the Coast of Africa, she shall be brought before that One of the Two Mixed Courts of Justice to be established at the Cape of Good Hope and at Sierra Leone which may be nearest to the Place of Detention, or which the Captor, on his own Responsibility, may think can be soonest reached from such Place.

If the Vessel shall be detained on the Coast of the Island of Cuba, she shall be brought before the Mixed Court of Justice at New York.

Article II.—Whenever a Ship of either of the Two Navies, duly authorized as aforesaid, shall meet a Merchant Vessel liable to be searched under the Provisions of the said Treaty, the Search shall be conducted with the Courtesy and Consideration which ought to be observed between allied and friendly Nations; and the Search shall, in all Cases, be made by an Officer holding a Rank not lower than that of Lieutenant in the Navy, or by the Officer who at the Time shall be Second in Command of the Ship by which such Search is made.

Article III.—The Commander of any Ship of the Two Navies, duly authorized as aforesaid, who may detain any Merchant Vessel in pursuance of the Tenor of the present Instructions, shall leave on board the Vessel so detained the Master, the Mate, or Boatswain, and Two or Three at least of the Crew, the whole of the Negroes, if any, and all the Cargo. The Captor shall at the Time of Detention draw up in Writing a Declaration, which shall exhibit the State in which he found the detained Vessel. Such Declaration shall be signed by himself, and shall be given in or sent, together with the captured Vessel, to the Mixed Court of Justice before whom such Vessel shall be carried or sent for Adjudication. He shall deliver to the Master of the detained Vessel a signed and certified List of the

Papers found on board the same, as well as a Certificate of the Number of Negroes found on board at the Moment of Detention.

In the Declaration which the Captor is hereby required to make, as well as in the certified List of the Papers seized, and in the Certificate of the Number of Negroes found on board the detained Vessel, he shall insert his own Name and Surname, the Name of the capturing Ship, and the Latitude and Longitude of the Place where the Detention shall have been made.

The Officer in charge of the detained Vessel shall, at the Time of bringing the Vessel's Papers into the Mixed Court of Justice, deliver into the Court a Certificate, signed by himself, and verified on Oath, stating any Changes which may have taken place in respect to the Vessel, her Crew, the Negroes, if any, and her Cargo, between the Period of her Detention and the Time of delivering in such Paper.

Article IV.—If urgent Reasons, arising from the Length of the Voyage, the State of Health of the Negroes, or any other Cause, should require that either the whole or a Portion of such Negroes should be disembarked before the Vessel can arrive at the Place at which One of the Mixed Courts of Justice is established, the Commander of the capturing Ship may take upon himself the Responsibility of so disembarking the Negroes, provided the Necessity of the Disembarkation, and the Causes thereof, be stated in a proper Form. Such Certificate shall be drawn up and entered at the Time on the Log Book of the detained Vessel.

Article V.—In case any Merchant Vessel detained in pursuance of the present Instruction should prove to be unseaworthy, or in such a Condition as not to be taken to One of the Three Ports where the Mixed Courts of Justice are to be established, in pursuance of the Treaty of this Date, the Commander of the detaining Cruizer may take upon himself the Responsibility of abandoning or destroying her, provided the exact Causes which made such a Step imperatively necessary be stated in a Certificate, verified on Oath. Such Certificate shall be drawn up and formally executed in Duplicate at the Time.

In case of the Abandonment or Destruction of a detained Vessel, the Master and Crew, together with the Negroes and Papers found on board, and One Copy of the sworn Certificate mentioned in the preceding Paragraph of this Article, shall be sent and delivered to the proper Mixed Court of Justice at the earliest possible Moment.

The

The undersigned Plenipotentiaries have agreed, in conformity with the Eleventh Article of the Treaty signed by them on this Day, that the present Instructions shall be annexed to the said Treaty, and be considered an integral Part thereof.

Done at Washington, the Seventh Day of April in the Year of our Lord One thousand eight hundred and sixty-two.

(L. S.) LYONS.
(L. S.) WILLIAM H. SEWARD.

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*Annex (B.) to the Treaty between Great Britain and the United States of America for the Abolition of the African Slave Trade; signed at Washington on the Seventh Day of April One thousand eight hundred and sixty-two.*

*Regulations for the Mixed Courts of Justice.*

ARTICLE I.—The Mixed Courts of Justice to be established under the Provisions of the Treaty, of which these Regulations are declared to be an integral Part, shall be composed in the following Manner:

The Two High Contracting Parties shall each name a Judge and an Arbitrator, who shall be authorized to hear and to decide, without Appeal, all Cases of Capture or Detention of Vessels which, in pursuance of the Stipulations of the aforesaid Treaty, shall be brought before them.

The Judges and the Arbitrators shall, before they enter upon the Duties of their Office, respectively make Oath before the principal Magistrate of the Place in which such Courts shall respectively reside, that they will judge fairly and faithfully; that they will have no Preference either for Claimant or for Captor; and that they will act in all their Decisions in pursuance of the Stipulations of the aforesaid Treaty.

There shall be attached to each of such Courts a Secretary or Registrar, who shall be appointed by the Party in whose Territories such Court shall reside.

Such Secretary or Registrar shall register all the Acts of the Court to which he is appointed, and shall, before he enters upon his Office, make Oath before the Court that he will conduct himself with due Respect for its Authority, and will act with Fidelity and Impartiality in all Matters relating to his Office.

The Salaries of the Judges and Arbitrators shall be paid by the Governments by whom they are appointed.

The Salary of the Secretaries or Registrars of the Two Courts to be established in the Territories of Great Britain shall be paid by Her Britannic Majesty, and that of the Secretary or Registrar of the Court to be established in the Territories of the United States shall be paid by the United States Government.

Each of the Two Governments shall defray Half of the aggregate Amount of the other Expenses of such Courts.

Article II.—The Expenses incurred by the Officer charged with the Reception, Maintenance, and Care of the detained Vessel, Negroes, and Cargo, and with the Execution of the Sentence, and all Disbursements occasioned by bringing a Vessel to Adjudication, shall in case of Condemnation be defrayed from the Funds arising out of the Sale of the Materials of the Vessel, after the Vessel shall have been broken up, of the Ship's Stores, and of such Parts of the Cargo as shall consist of Merchandise; and in case the Proceeds arising out of this Sale should not prove sufficient to defray such Expenses, the Deficiency shall be made good by the Government of the Country within whose Territories the Adjudication shall have taken place.

If the detained Vessel shall be released, the Expenses occasioned by bringing her to Adjudication shall be defrayed by the Captor, except in the Cases specified and otherwise provided for under Article VII. of the Treaty to which these Regulations form an Annex, and under Article VII. of these Regulations.

Article III.—The Mixed Courts of Justice are to decide upon the Legality of the Detention of such Vessels as the Cruizers of either Nation shall detain, in pursuance of the said Treaty.

The said Courts shall adjudge definitively and without Appeal all Questions which shall arise out of the Capture and Detention of such Vessels.

The Proceedings of the Courts shall take place as summarily as possible; and for this Purpose the Courts are required to decide each Case, as far as may be practicable, within the Space of Twenty Days, to be dated from the Day on which the detained Vessel shall have been brought into the Port where the deciding Court shall reside.

The final Sentence shall not in any Case be delayed beyond the Period of Two Months, either on account of the Absence of Witnesses or for any other Cause, except upon the Application of any of the Parties interested; but in that Case, upon such Party or Parties giving satisfactory Security that they will take upon

upon themselves the Expense and Risks of the Delay, the Courts may, at their Discretion, grant an additional Delay, not exceeding Four Months.

Either Party shall be allowed to employ such Counsel as he may think fit to assist him in the Conduct of his Cause.

All the Acts and essential Parts of the Proceedings of the said Courts shall be committed to Writing, and be placed upon record.

Article IV.—The Form of the Process or Mode of proceeding to Judgment shall be as follows:

The Judges appointed by the Two Governments respectively shall in the first place proceed to examine the Papers of the detained Vessel, and shall take the Depositions of the Master or Commander, and of Two or Three at least of the principal Individuals on board of such Vessel, and shall also take the Declaration on Oath of the Captor, if it should appear to them necessary to do so, in order to judge and to pronounce whether the said Vessel has been justly detained or not, according to the Stipulations of the aforesaid Treaty, and in order that, according to such Judgment, the Vessel may be condemned or released. In the event of the Two Judges not agreeing as to the Sentence which they ought to pronounce in any Case brought before them, whether with respect to the Legality of the Detention, or the Liability of the Vessel to Condemnation, or as to the Indemnification to be allowed, or as to any other Question which may arise out of the said Capture, or in case any Difference of opinion should arise between them as to the Mode of proceeding in the said Court, they shall draw by Lot the Name of One of the Two Arbitrators so appointed as aforesaid, which Arbitrator, after having considered the Proceedings which have taken place, shall consult with the Two Judges on the Case; and the final Sentence or Decision shall be pronounced conformably to the Opinion of the Majority of the Three.

Article V.—If the detained Vessel shall be restored by the Sentence of the Court, the Vessel and the Cargo, in the State in which they shall then be found (with the Exception of the Negroes found on board, if such Negroes shall have been previously disembarked under the Provisions of Articles IV. and V. of the Instructions annexed to the Treaty of this Date), shall forthwith be given up to the Master, or to the Person who represents him; and such Master or other Person may, before the same Court, claim a Valuation of the Damages which he may have a Right to demand. The Captor himself, and in his Default his Government, shall remain responsible for the Damages to which

the Master of such Vessel, or the Owners either of the Vessel or of her Cargo, may be pronounced to be entitled.

The Two High Contracting Parties bind themselves to pay, within the Term of a Year from the Date of the Sentence, the Costs and Damages which may be awarded by the Court; it being mutually agreed that such Costs and Damages shall be paid by the Government of the Country of which the Captor shall be a Subject.

Article VI.—If the detained Vessel shall be condemned, she shall be declared lawful Prize, together with her Cargo, of whatever Description it may be, with the Exception of the Negroes who shall have been brought on board for the Purpose of Trade; and the said Vessel, subject to the Stipulations in the VIIIth Article of the Treaty of this Date, shall, as well as her Cargo, be sold by Public Sale for the Profit of the Two Governments, subject to the Payment of the Expenses hereinafter mentioned.

The Negroes who may not previously have been disembarked shall receive from the Court a Certificate of Emancipation, and shall be delivered over to the Government to whom the Cruizer which made the Capture belongs, in order to be forthwith set at liberty.

Article VII.—The Mixed Courts of Justice shall also take cognizance of, and shall decide definitively and without Appeal, all Claims for Compensation on account of Losses occasioned to Vessels and Cargoes which shall have been detained under the Provisions of this Treaty, but which shall not have been condemned as legal Prize by the said Courts; and in all Cases wherein Restitution of such Vessels and Cargoes shall be decreed, save as mentioned in the VIIth Article of the Treaty to which these Regulations form an Annex, and in a subsequent Part of these Regulations, the Court shall award to the Claimant or Claimants, or to his or their lawful Attorney or Attornies, for his or their Use, a just and complete Indemnification for all Costs of Suit, and for all Losses and Damages which the Owner or Owners may have actually sustained by such Capture and Detention; and it is agreed that the Indemnification shall be as follows:

First.—In case of total Loss, the Claimant or Claimants shall be indemnified,—

(A.) For the Ship, her Tackle, Equipment, and Stores.

(B.) For all Freights due and payable.

(C.) For the Value of the Cargo of Merchandise, if any, deducting all Charges and Expenses which would have been payable

payable upon the Sale of such Cargo, including Commission of Sale.

(D.) For all other regular Charges in such Case of total Loss.

Secondly.—In all other Cases (save as herein-after mentioned) not of total Loss, the Claimant or Claimants shall be indemnified,—

(A.) For all special Damages and Expenses occasioned to the Ship by the Detention, and for Loss of Freight, when due or payable.

(B.) For Demurrage, when due, according to the Schedule annexed to the present Article.

(C.) For any Deterioration of the Cargo.

(D.) For all Premium of Insurance on additional Risks.

The Claimant or Claimants shall be entitled to Interest at the Rate of 5 (Five) per Cent. per Annum on the Sum awarded, until such Sum is paid by the Government to which the capturing Ship belongs. The whole Amount of such Indemnifications shall be calculated in the Money of the Country to which the detained Vessel belongs, and shall be liquidated at the Exchange current at the Time of the Award.

The Two High Contracting Parties, however, have agreed, that if it shall be proved to the Satisfaction of the Judges of the Two Nations, and without having recourse to the Decision of an Arbitrator, that the Captor has been led into Error by the Fault of the Master or Commander of the detained Vessel, the detained Vessel in that Case shall not have the Right of receiving for the Time of her Detention the Demurrage stipulated by the present Article, nor any other Compensation for Losses, Damages, or Expenses consequent upon such Detention.

*Schedule of Demurrage or daily Allowance for a Vessel of*

| Tons. | | Tons. | | £ | |
|---|---|---|---|---|---|
| 100 | to | 120 | inclusive, | 5 | per diem, |
| 121 | „ | 150 | „ | 6 | „ |
| 151 | „ | 170 | „ | 8 | „ |
| 171 | „ | 200 | „ | 10 | „ |
| 201 | „ | 220 | „ | 11 | „ |
| 221 | „ | 250 | „ | 12 | „ |
| 251 | „ | 270 | „ | 14 | „ |
| 271 | „ | 300 | „ | 15 | „ |

and so on in proportion.

Article VIII.—Neither the Judges nor the Arbitrators, nor the Secretaries or Registrars of the Mixed Courts of Justice, shall demand or receive from any of the Parties concerned in the Cases which shall be brought before such Courts any Emolument or Gift, under any Pretext whatsoever, for the Performance of the Duties which such Judges, Arbitrators, and Secretaries or Registrars have to perform.

Article IX.—The Two High Contracting Parties have agreed that in the event of the Death, Sickness, Absence on Leave, or any other legal Impediment of One or more of the Judges or Arbitrators composing the above-mentioned Courts respectively, the Post of such Judge or Arbitrator shall be supplied ad interim in the following Manner:

First.—On the Part of Her Britannic Majesty, and in those Courts which shall sit within the Possessions of Her said Majesty, if the Vacancy be that of the British Judge, his Place shall be filled by the British Arbitrator; and either in that Case, or in case the Vacancy be originally that of the British Arbitrator, the Place of such Arbitrator shall be filled by the Governor or Lieutenant-Governor resident in such Possession; in his unavoidable Absence, by the principal Magistrate of the same; or in the unavoidable Absence of the principal Magistrate, by the Secretary of the Government; and the said Court so constituted as above shall sit, and in all Cases brought before it for Adjudication shall proceed to adjudge the same, and to pass Sentence accordingly.

Secondly.—On the Part of Great Britain, and in that Court which shall sit within the Territories of the United States of America, if the Vacancy be that of the British Judge, his Place shall be filled by the British Arbitrator; and either in that Case, or in case the Vacancy be originally that of the British Arbitrator, his Place shall be filled by the British Consul, or in the unavoidable Absence of the Consul by the British Vice-Consul; and in case the Vacancy be both of the British Judge and of the British Arbitrator, then the Vacancy of the British Judge shall be filled by the British Consul, and that of the British Arbitrator by the British Vice-Consul; but if there be no British Consul or Vice-Consul to fill the Place of British Arbitrator, then the United States Arbitrator shall be called in, in those Cases in which the British Arbitrator would be called in; and in case the Vacancy be both of the British Judge and of the British Arbitrator, and there be neither British Consul nor Vice-Consul to fill ad interim the Vacancies, then the United States Judge and Arbitrator

shall

shall sit, and in all Cases brought before them for Adjudication shall proceed to adjudge the same, and pass Sentence accordingly.

Thirdly.—On the Part of the United States, and in that Court which shall sit within their Territories, if the Vacancy be that of the United States Judge, his Place shall be filled by the United States Arbitrator; and either in that Case, or in case the Vacancy be originally that of the United States Arbitrator, the Place of such Arbitrator shall be filled by the Judge of the United States for the Southern District of New York; and the said Court, so constituted as above, shall sit, and in all Cases brought before them for Adjudication shall proceed to adjudge the same, and pass Sentence accordingly.

Fourthly.—On the Part of the United States of America, and in those Courts which shall sit within the Possessions of Her Britannic Majesty, if the Vacancy be that of the United States Judge, his Place shall be filled by the United States Arbitrator; and either in that Case, or in case the Vacancy be originally that of the United States Arbitrator, his Place shall be filled by the United States Consul, or in the unavoidable Absence of the Consul by the United States Vice-Consul. In case the Vacancy be both of the United States Judge and of the United States Arbitrator, then the Vacancy of the Judge shall be filled by the United States Consul, and that of the United States Arbitrator by the United States Vice-Consul; but if there be no United States Consul or Vice-Consul to fill the Place of the United States Arbitrator, then the British Arbitrator shall be called in, in those Cases in which the United States Arbitrator would be called in; and in case the Vacancy be both of the United States Judge and of the United States Arbitrator, and there be neither United States Consul nor Vice-Consul to fill ad interim the Vacancies, then the British Judge and the British Arbitrator shall sit, and in all Cases brought before them for Adjudication shall proceed to adjudge the same, and pass Sentence accordingly.

The chief Authority of the Place in the Territories of either High Contracting Party where the Mixed Courts of Justice shall sit shall, in the event of a Vacancy arising either of the Judge or the Arbitrator of the other High Contracting Party, forthwith give Notice of the same by the most expeditious Method in his Power to the Government of that other High Contracting Party, in order that such Vacancy may be supplied at the earliest possible Period. And each of the High Contracting Parties agrees to supply definitively, as soon as possible, the

Vacancies which may arise in the above-mentioned Courts from Death or from any other Cause whatever.

The undersigned Plenipotentiaries have agreed, in conformity with the XIth Article of the Treaty signed by them on this Day, that the preceding Regulations shall be annexed to the said Treaty, and considered an integral Part thereof.

Done at Washington, the Seventh Day of April in the Year of our Lord One thousand eight hundred and sixty-two.

(L.S.) LYONS.
(L.S.) WILLIAM H. SEWARD.

And whereas it is expedient that Provision should be made for giving effect to the Provisions of the said Treaty and Annexes: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Officers commanding Ships of Her Majesty or of the United States of America, being duly authorized, empowered to visit and search Merchant Ships of the Two Nations.

**1.** It shall be lawful for any Officer commanding any Ship of War of Her Majesty or of the United States of America, not below the Rank of Lieutenant of the Royal Navy (unless by the Death of the Commander of such Ship or otherwise the Command thereof shall have devolved upon an Officer of inferior Rank, and then for such last-mentioned Officer), and who shall be duly instructed and authorized, according to the Provisions of the said Treaty, and for any Officer not below the Rank of Lieutenant in the Royal Navy, who shall be acting under the Orders of any Officer commanding a Ship of War, so instructed and authorized as aforesaid, to visit and search any Merchant Vessel of either of the said Two Nations which shall upon reasonable Grounds be suspected of being engaged in the Traffic in Slaves, or of having been fitted out for that Purpose, or of having been engaged in such Traffic during the Voyage in which such Vessel is met, and to detain and send or carry away such Vessel, together with its Masters, Sailors, Passengers, Slaves, and Cargo, for the Purpose of such Vessel being brought to Adjudication before One of the Mixed Courts of Justice, to be established in virtue of the Fourth Article of the said Treaty; and all such Commanders and other Officers in the Exercise of such Rights shall comply with the several Provisions and Instructions of the said Treaty which apply thereto respectively.

Ships suspected of having been fitted out for the Purpose of Traffic in

**2.** All Ships and Vessels belonging wholly or in part to Her Majesty's Subjects which shall be suspected upon reasonable Grounds of being engaged in the Traffic in Slaves, or of having been fitted out for that Purpose, or of having been engaged in such Traffic during the

the Voyage in which such Vessel is met, and all Boats, Apparel, and Cargoes therein, shall be subject to Search and Detention by British or American Vessels of War duly authorized for that Purpose according to the Stipulations of the said Treaty, and subject to Condemnation or other Judgment by the Judges and Arbitrators of the Mixed Courts of Justice to be appointed according to the Provisions of the said Treaty.

Slaves liable to search and Detention.

**3.** It shall be lawful for Her Majesty, by any Warrant under Her Royal Sign Manual, countersigned by One of Her Majesty's Principal Secretaries of State for the Time being, to appoint such Judges and Arbitrators as are in and by the said Treaty mentioned to be appointed by Her Majesty, and from Time to Time to supply any Vacancies which may arise in such Offices by appointing other Persons thereto, and to grant Salaries to such Judges and Arbitrators as aforesaid, not exceeding such annual Sums as the Commissioners of Her Majesty's Treasury shall from Time to Time direct and such Judges and Arbitrators shall be empowered to examine and decide all such Cases of Detention, Captures, and Seizures of Vessels and their Cargoes as aforesaid, detained, seized, or captured under the said Treaty, as are by the said Treaty and by this Act made subject to their Jurisdiction, and to proceed therein, and give such Judgments and make such Orders therein, and do all other Things appertaining thereto, agreeably to the Provisions of the said Treaty, as fully as if special Powers for that Purpose were inserted in this Act.

Her Majesty may appoint Judges and Arbitrators to decide Cases of Detention.

**4.** It shall be lawful for Her Majesty, by any Warrant under Her Royal Sign Manual, countersigned by One of Her Majesty's Principal Secretaries of State for the Time being, to appoint a Secretary or Registrar to each of the Mixed Courts of Justice which shall be established in Her Majesty's Dominions, and from Time to Time to supply by other Appointments any Vacancy which may thereafter occur in such Office, and to grant a Salary to such Secretary or Registrar not exceeding such annual Sum as the said Commissioners of Her Majesty's Treasury shall from Time to Time direct; and such Secretary or Registrar shall be empowered to perform all the Duties of such Office set forth by the said Treaty, and to do all such Things as may be necessary for the due Discharge of the Duties of his said Office.

Her Majesty may appoint a Secretary or Registrar to the Mixed Court.

**5.** In case of the Death, Sickness, Absence on Leave, or any other legal Impediment of any such British Judge of any of the said Courts established by virtue of the said Treaty, the British Arbitrator of such Court shall fill the Office of such Judge ad interim until the Office shall be thereafter filled by some Person appointed by Her

In Case of the Death or Incapacity from Illness of any British Judge of such Courts

or of the British Arbitrator.

Her Majesty, or until such Judge shall resume the Duties of his said Office; and in case of the Vacancy of the Office of British Arbitrator of the Mixed Court established by virtue of the said Treaty in the Possessions of Her Majesty, or in case of the Death, Sickness, Absence on Leave, or other Impediment of the said Arbitrator of the said Court of Justice, the Office of such Arbitrator shall be filled ad interim successively by the Governor or Lieutenant-Governor resident in such Possession, by the principal Magistrate in the same, and by the Secretary of the Government, until the said Office shall be filled by some Person appointed by Her Majesty, or until such Arbitrator shall resume the Duties of his said Office; and in case of the Death, Sickness, Absence on Leave, or other legal Impediment of the British Arbitrator in the Mixed Court of Justice established by virtue of the said Treaty within the Possessions of the United States of America, or in case of his assuming ad interim the Duties of a Judge of the said Mixed Court as aforesaid, the Office of such British Arbitrator shall be filled ad interim successively by the British Consul and British Vice-Consul resident in such Possession; and in case of such Vacancy of the Offices both of such British Judge and British Arbitrator, then that such Office of Judge shall be filled by the British Consul and such Office of British Arbitrator by the British Vice-Consul; and in case there shall be no British Consul or Vice Consul at such Place, then it shall be lawful for the United States Arbitrator to act in all those Cases in which a British Arbitrator, if there were any, would be required to act; and in case of such Vacancy in the Offices both of British Judge and British Arbitrator, and there should be neither a British Consul nor British Vice-Consul resident at such Place, then it shall be lawful for the United States Judge and United States Arbitrator of such Court to sit in such Court, and in all Cases brought before them for Adjudication to adjudge the same, and pass Sentence accordingly, until the said Offices shall respectively be thereafter filled by some Person or Persons appointed by Her Majesty, or until the said British Judge and British Arbitrator shall resume the Duties of their said Offices respectively.

In Case of the Death or Incapacity from Illness or other lawful Impediment of the United States Judge or Arbitrator of such Court sitting in Territories

**6.** In case of the Death, Sickness, Absence on Leave, or any other legal Impediment of any such United States Judge of the said Court established by virtue of the said Treaty within the Territories of the United States, the Place of such United States Judge shall be filled by the United States Arbitrator ad interim until the Office shall be thereafter filled by some Person appointed by the said United States, or until such Judge shall resume the Duties of his said Office; and in case of the Death, Sickness, Absence on Leave of the said United States Arbitrator of such Court, or in case of his assuming ad

ad interim the Duties of the United States Judge of the said Court as aforesaid, the Place of such Arbitrator shall be filled by the Judge of the United States for the Southern District of New York; and it shall be lawful for the said Court so constituted as aforesaid to act, and in all Cases brought before them for Adjudication to adjudge the same, and pass Sentence accordingly. of United States.

**7.** In case of the Death, Sickness, Absence on Leave, or any other legal Impediment of any such United States Judge of any of the Courts established by virtue of the said Treaty which shall sit within the Possession of Her Majesty, the Place of such United States Judge shall be filled by the United States Arbitrator; and in case of the Death, Sickness, Absence on Leave, or other legal Impediment of the United States Arbitrator, or in case his assuming ad interim the Duties of the United States Judge of the said Mixed Court, the Office of such United States Arbitrator shall be filled by the United States Consul, or in the unavoidable Absence of the Consul by the United States Vice-Consul; and in case the Vacancy be both of the United States Judge and United States Arbitrator, then the Vacancy of the United States Judge shall be filled by the United States Consul, and that of the United States Arbitrator by the United States Vice-Consul; and if there be no United States Consul or Vice-Consul to fill the Place of the United States Arbitrator, then it shall be lawful for the British Arbitrator to act in all those Cases in which the United States Arbitrator would be required to act; and in case the Vacancy be both of the United States Judge and of the United States Arbitrator, and there be neither United States Consul nor Vice-Consul to fill ad interim the Vacancies, then it shall be lawful for the British Judge and the British Arbitrator to sit in such Court; and in all Cases brought before them for Adjudication it shall be lawful for such Court so constituted to adjudge the same, and pass Sentence accordingly, until the said Offices shall respectively be thereafter filled by some Person or Persons appointed by the United States, or until the said United States Judge and United States Arbitrator shall resume the Duties of their said Offices respectively. In Case of Death, Incapacity through Illness or other lawful Impediment of United States Judge or Arbitrator of such Courts sitting within Territories of Her Majesty.

**8.** Every such Judge and Arbitrator so appointed by Her Majesty, before he shall enter upon the Execution of any of the Duties of such his Office, shall take an Oath in the Presence of the principal Magistrate then residing and acting in the Colony, Settlement, or Place in which the Mixed Court shall be established, whether belonging to Her Majesty or to the United States of America; Judges and Arbitrators to take an Oath.

which Oath any such Magistrate shall be authorized to administer in the Form following; (that is to say,)

Form of Oath.

'I *A.B.* do solemnly swear, That I will, according to the best of my Skill and Knowledge, act in the Execution of my Office as ..... faithfully, impartially, fairly, and without Preference or Favour, either for Claimants or Captors or any other Persons, and that I will to the best of my Judgment and Power act in pursuance of and according to the Stipulations, Regulations, and Instructions contained in the Treaty between Her Majesty and the United States of America, signed at Washington on the Seventh Day of June One thousand eight hundred and sixty-two.'

Secretary or Registrar to take an Oath.

And every Secretary or Registrar appointed by Her Majesty under the Provisions of the said Treaty and of this Act, before he enters on the Duties of his said Office, shall take an Oath before One of the Judges of the said Mixed Courts, who shall be empowered to administer the same in the Form following; (that is to say,)

'I *A.B.*, do solemnly swear, That I will, according to the best of my Skill and Knowledge, act in the Execution of my Office, and that I will conduct myself with Respect to the Authority of the Judges and Arbitrators of the Court to which I am attached, and will act with Fidelity in all the Affairs which may belong to my Charge, and without Preference or Favour, either Claimants or Captors or any other Persons.'

Judges and Arbitrators may administer Oaths.

**9.** It shall be lawful for the said Judges or Arbitrators, or either of them, or for any such Secretary or Registrar, to administer Oaths to and take the Depositions of all Parties, Witnesses, and other Persons who may come or be brought before them to be examined, or for the Purpose of deposing in the Course of any Proceeding before the said Judges or Arbitrators under the said Treaty and this Act; and it shall also be lawful for the said Judges and Arbitrators to summon before them all Persons whom they may deem it necessary or proper to examine in relation to any Proceeding under their Cognizance, and to send for and issue Precepts for the producing all such Papers as may relate to the Matters in question before them, and to enforce all such Summonses, Orders, and Precepts by such and the like Means, Powers, and Authorities as any Court of Vice-Admiralty may do.

Punishing Persons giving false Evidence.

**10.** Every Person who shall wilfully and corruptly give false Evidence in any Examination or Deposition had or Affidavit taken in any Proceeding before the Judges or Arbitrators aforesaid under the said Treaty or this Act, shall be deemed guilty of Perjury, and being thereof convicted shall be subject and liable to all the Pains and Penalties to which Persons convicted of wilful and corrupt Perjury

Perjury are liable; and every such Person may be tried for any such Perjury either in the Place where the Offence was committed or in any Colony or Settlement of Her Majesty near thereto in which there is a Court of competent Jurisdiction to try any such Offence, or in Her Majesty's Court of Queen's Bench in England; and in case of any Prosecution for such Offence in Her Majesty's said Court of Queen's Bench the Venue may be laid in the County of Middlesex.

Pendency of Suits before the Mixed Court to be a Bar to any Proceedings instituted for the Recovery of the Vessels detained.

**11.** The Pendency of any Suit or Proceeding instituted before the said Judges or Arbitrators for the Condemnation or Restitution of any Ship or Cargo of Slaves taken, seized, or detained by virtue of the said Treaty, or the final Adjudication, Condemnation, or Judgment or Determination thereupon, may be pleaded in Bar or given in Evidence under the General Issue, and shall be deemed in any Court whatever to be a complete Bar in any Action, Suit, or Proceeding instituted by any Person or Persons for the Recovery of any such Ship, Vessel, or Cargo, or of any Damage or for any Injury sustained in consequence of any Capture, Seizure, or Detention, or any thing done in pursuance of the Provisions of the said Treaty.

Vessels equipped for Traffic in Slaves to be deemed engaged in the Slave Trade.

**12.** If any of the Particulars specified in the Sixth Article of the said Treaty shall be found in the Outfit and Equipment of or on board of any such Merchant Vessel, wholly or in part owned by Subjects of Her Majesty, and visited and detained in pursuance of the said Treaty, such Vessel, unless Proof be given to the contrary, shall be taken to have been engaged in the Slave Trade, or to have been fitted out for the Purpose of such Traffic, and to be equipped and employed for the Purposes declared unlawful by an Act of Parliament passed in the Fifth Year of the Reign of His present Majesty King George the Fourth, intituled "An Act to amend and consolidate the "Laws relating to the Abolition of the Slave Trade." 5 G. 4. c. 113.

Captured Negroes to be delivered over.

**13.** Immediately after Sentence of Condemnation upon a Vessel charged with being concerned in illegal Slave Trade shall have been passed by the Mixed Court of Justice established under the said Treaty, all Negroes or others who were on board for the Purpose of being consigned to Slavery shall be delivered over to the Government to whom belongs the Cruiser which made the Capture.

Vessel condemned to be sold for Her Majesty's Service or broken up.

**14.** Any Ship or Vessel which shall be condemned under any such Authority as aforesaid may be taken into Her Majesty's Service, upon Payment of such Sum as the Lord High Admiral or the Lords Commissioners of the Admiralty shall deem a proper Price for the same, or if not so taken shall be broken up and demolished, and the

Materials thereof shall be publicly sold in separate Parts, and the Proceeds thereof, and of the Goods, Wares, and Merchandise laden therein, shall be paid to such Person or Persons as the Commissioners of Her Majesty's Treasury may appoint to receive the same.

Captors of Vessels shall, after the same are condemned, be entitled to the Portion of the Proceeds belonging to Her Majesty.

**15.** Where any Ship or Vessel employed or engaged in illicit Traffic in Slaves, in violation of the said Treaty, shall be seized by any Ship or Vessel belonging to Her Majesty duly authorized to make such Seizure under the Provisions of the said Treaty, and shall be afterwards condemned by any of the Commissioners appointed in virtue of the said Treaty, there shall be paid to the Captors the Portion to which Her Majesty is entitled, such Portion to be distributed in the Manner herein-after directed for the Distribution of Bounties on Slaves taken on board the said Vessels.

Persons found on board condemned Vessel may be sent to proper Jurisdiction to be tried.

**16.** For the Purpose of giving effect to the Ninth Article of the said Treaty, it shall be lawful for One of Her Majesty's Principal Secretaries of State, with respect to Persons being within the United Kingdom of Great Britain and Ireland, and for the Governor, Lieutenant Governor, or principal Magistrate of any other Part of Her Majesty's Dominions, with respect to Persons being within such other Part of Her Majesty's Dominions, if he shall think fit, by Order in Writing under his Hand, to direct that the Captain, Master, Pilot, or any of the Crew of any Vessel which shall have been so condemned as mentioned in the said Ninth Article, or any other Person found on board such Vessel at the Time of Capture, shall be forthwith conveyed within the Jurisdiction of the Nation under whose Flag such Vessel so condemned as aforesaid was sailing at the Time of Capture, or to which such Vessel may belong; and when any such Order shall have been made as aforesaid, it shall be lawful to arrest and detain within any Part of Her Majesty's Dominions any Person in respect of whom any such Order shall have been made as aforesaid; and it shall be lawful for any Judge, Justice of the Peace, Headborough, Peace Officer, Constable, or other Person having the like Authority, to cause to be arrested and detained, and to arrest and detain, for the Purpose of being conveyed within the proper Jurisdiction, any Person in respect of whom such Order shall have been made as aforesaid, as fully and effectually as if such Person had committed a Felony within the Jurisdiction where such Person may be.

Measures to be taken to secure Attendance of Witnesses.

**17.** When any such Order shall have been made, such Secretary of State, Governor, Lieutenant Governor, or other principal Magistrate making such Order, shall be empowered to take all such Measures, as to him shall seem requisite and expedient, for the Purpose of securing the Attendance of Witnesses, and the Production of

of Proofs necessary to establish the Guilt of the Person or Persons with respect to whom such Order shall have been made before the Court or Judge having the proper Jurisdiction in that Behalf.

Bounty for Slaves captured.

**18.** There shall be paid to the Commanders, Officers, and Crews of Her Majesty's Ships authorized to make Seizures under the said Treaty a Bounty of *Five Pounds* for every Man, Woman, and Child Slave seized and found on board a British or American Ship or Vessel taken and condemned in pursuance of the Provisions of the said Treaty and of this Act, such Bounty to be distributed to and amongst the Captors aforesaid in such Manner and Proportions as Her Majesty shall think fit to order by any Order in Council, or by any Proclamation to be made for that Purpose.

Bounty on Tonnage of Slave Ships captured and demolished.

**19.** Where any Ship or Vessel which shall have been seized and condemned under the Provisions of the Treaty aforesaid shall have been or shall be demolished, and the Materials thereof publicly sold in separate Parts, as well as her Cargo, there shall be paid to the Commanders, Officers, and Crews of Her Majesty's Ships authorized to make and making such Seizures, in addition to the Amount which may be payable in respect of Her Majesty's Portion of the Proceeds of such Sale, as herein-before mentioned, a further Bounty on the Tonnage of such Ship or Vessel at the Rate of *Thirty Shillings* for every Ton of such Tonnage.

Where no Slaves are on board a Ship seized an additional Bounty to be paid.

**20.** Where any Ship or Vessel having no Slaves on board shall have been seized and condemned under the Provisions of the said Treaty, there shall be paid to the Commanders, Officers, and Crews of Her Majesty's Ships authorized to make and making such Seizure an additional Bounty upon the Tonnage of such Ship or Vessel at the Rate of *Four Pounds* for every Ton, and the Tonnage of all such Vessels shall be ascertained according to the Mode of ascertaining the Admeasurement of British Vessels, either by the principal Officer of the Customs at the Port where the Vessel may be at the Time of Condemnation, or in default thereof by the best Evidence which can be obtained, to be certified by the Commissioners by whom such Condemnation shall be pronounced: Provided always, that in every Case in which any Ship or Vessel shall be seized with Slaves on board in which the Bounty calculated upon the Number of Slaves shall be less than the Bounty calculated upon the Tonnage, the Commanders of Her Majesty's Ships making the Seizure may elect to take the Bounty calculated according to Tonnage, instead of the Bounty which would be payable upon the Number of Slaves on board.

Bounties to be paid out of Monies to be provided by Parliament.

**21.** All Bounties payable under this Act shall be paid out of any Monies that may be provided by Parliament for that Purpose to the Commanders, Officers, and Crews of Her Majesty's Ships authorized to make such Seizures under the Provisions of any such Treaty or Convention, and such Bounties shall be issued and paid by Order from the Commissioners of Her Majesty's Treasury.

Bounties not liable to Payment of Fees.

**22.** The said Bounty, as also all Bounties payable under any of the Acts for the Abolition or Suppression of the Slave Trade, shall not hereafter be charged with Treasury Fees or Exchequer Fees of any Description.

Proof of Tonnage.

**23.** In order to entitle the Captors to receive the said Bounty Money, the Tonnage of the Ship or Vessel so seized and condemned shall be proved to the Commissioners of Her Majesty's Treasury by producing a Copy duly certified of the Sentence or Decree of Condemnation, or by such documentary or other Evidence as they may deem satisfactory.

Copy of Sentence of Condemnation to be produced to the Commissioners of the Treasury.

**24.** In order to entitle the Captors to receive the said Bounty Money, the Number of Men, Women, and Children so taken, delivered over, and condemned shall be proved to the Commissioners of Her Majesty's Treasury, by producing a Copy, duly certified, of the Sentence or Decree of Condemnation; and also a Certificate under the Hand of the proper Officer or Officers, Military or Civil, who may be appointed to receive such Shares.

One Moiety of this Bounty only to be paid in certain Cases.

**25.** Where any Slaves or Persons treated as Slaves shall be seized on board any British or American Ship or Vessel taken and condemned in pursuance of the said Treaty and of this Act, but who shall not have been delivered over in consequence of Death, Sickness, or other inevitable Circumstance, it shall be lawful for the said Commissioners of Her Majesty's Treasury, if to their Discretion it shall seem meet, to direct the Payment of *One Moiety* of the Bounty which would have been due in each Case respectively if the said Slaves had been delivered over.

Parties claiming Benefit under this Act may resort to the Court of Admiralty.

**26.** Any Party or Parties claiming any Benefit by way of Bounty under the Provisions of this Act, or of the Share of the Proceeds of any British or American Vessel confiscated in pursuance of the Provisions of the aforesaid Treaty, may resort to the High Court of Admiralty for the Purpose of obtaining the Judgment of the said Court in that Behalf, and it shall be lawful for the Judge of the said High Court of Admiralty to determine thereon, and also to hear and determine

determine any Question of joint Capture which may arise upon any Seizure made in pursuance of this Act, and also to enforce any Decrees or Sentences of the said Vice-Admiralty Courts relating to any such Seizure.

Regulations and Penalties respecting Prize Agents Accounts extended to Bounties and Proceeds under this Act.

**27.** All the Provisions, Rules, Regulations, Forfeitures, and Penalties respecting the Delivery of Prize Agents of Accounts for Examination, and the Distribution of Prize Money, and the accounting for and paying over the Proceeds of Prize, and the Percentage due thereon to Greenwich Hospital, shall be extended to all the Bounties and Proceeds to be distributed under the Provisions of this Act to the Officers and Crew of any of Her Majesty's Ships and Vessels of War.

Commissioners of the Treasury may order Payment of Costs awarded for Vessels of Her Majesty and of the United States of America detained but not condemned.

**28.** Where any Ship or Vessel belonging in whole or in part to Subjects of Her Majesty or of the United States of America shall have been detained and brought to Adjudication by any Officers of Her Majesty the Queen of Great Britain and Ireland, and the said Ship shall be restored by Sentence of the Mixed Court, as is mentioned in the Fifth Article of the Annex (B.) to the said Treaty, it shall be lawful for the Commissioners of Her Majesty's Treasury to direct Payment to be made out of any Monies that may be provided by Parliament as aforesaid of any Costs or Damages which may be duly awarded according to the Provisions of the said last-mentioned Article: Provided always, that nothing herein contained shall exempt such Officer from his Liability to make good the Payments so made when lawfully called upon by Order of the said Commissioners of Her Majesty's Treasury.

The Commissioners of the Treasury may repay to the Seizor of any Vessel not condemned the Expenses incurred by him.

**29.** When any Seizure shall be made by any of the Commanders, Officers, and Crews of Her Majesty's Ships authorized to make such Seizures under the aforesaid Treaty, and Judgment shall be given against the Seizor, or when such Seizure shall be relinquished by him, it shall be lawful for the said Commissioners of Her Majesty's Treasury, if to their Discretion it shall seem meet, to direct Payment to be made out of any Monies that may be provided by Parliament as aforesaid of such Costs and Expenses as the Seizor may have incurred in respect of such Seizure or any proportionate Part thereof.

No Compensation when any Articles specified in the Sixth Article of the Treaty are found on board.

**30.** If any of the Things specified in the Sixth Article of the said Treaty shall be found on board any Vessel which shall be detained and brought before the said Mixed Court of Justice, neither the Master nor the Owner, nor any Persons whatsoever interested in the Equipment or Cargo of the Vessel, shall recover any Compensation

or Damages for such Detention, although the said Commissioners should not pronounce any Sentence of Condemnation.

Right of search and Detention only to be exercised with certain Limits.

**31.** The Right of Search and Detention by the First Article of the said Treaty conferred shall be exercised only within the Distance of *Two hundred* Miles from the Coast of Africa, and to the Southward of the Thirty-second Parallel of North Latitude, and within Thirty Leagues of the Coast of the Island of Cuba.

Right of Search not to be exercised by one Nation in Port, Settlement, or Territorial Waters of the other.

**32.** It shall not be lawful for Vessels of War of either of the said Two Nations to exercise such Right of Search within the Limits of a Settlement or Port or within the Territorial Waters of the other Nation.

Actions or Suits for Things done in pursuance the said Treaty or this Act.

**33.** If any Action or Suit shall be commenced in Great Britain or elsewhere against any Person or Persons for anything done in pursuance of the said Treaty or of this Act, in as far as it relates thereto, the Defendant or Defendants in such Action or Suit may plead the General Issue, and give this Act and the special Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance of and by the Authority of the said Treaty or of this Act, and if it shall appear so to have been done the Jury shall find for the Defendant or the Defendants, and if the Plaintiff shall be non-suited, or discontinue his Action after the Defendant or Defendants shall have appeared, or if Judgment shall be given upon any Verdict or Demurrer against the Plaintiff, the Defendant or Defendants shall recover *treble* Costs, and have the like Remedy for the same as Defendants have in other Cases by Law.

A

# BILL

FOR

## Rectifying a clerical Error in the Act of the present Session, Chapter Forty, with respect to the African Slave Trade Treaty.

WHEREAS in the Act of the present Session of Parliament, Chapter Forty, intituled "An Act to carry into effect the "Treaty between Her Majesty and the United States of "America for the Suppression of the African Slave Trade," it is accurately recited that it was on the Seventh Day of April in the Year of our Lord One thousand eight hundred and sixty-two that the Treaty to which the Act relates was signed at Washington, but in the Form (given in the Eighth Section of the Act) of the Oath to be taken by Judges and Arbitrators to be appointed by Her Majesty for the Purposes of the Treaty, Reference is made to the Treaty as having been signed at Washington on the Seventh Day of June One thousand eight hundred and sixty-two, the Word "June" being given (by clerical Error) for the Word "April," and it is expedient that the Error be rectified: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.



1. The

Form of Oath to be taken by Judges and Arbitrators under recited Act.

**1.** The Oath which, in accordance with the Eighth Section of the recited Act, is to be taken by every Judge and Arbitrator referred to in that Section, shall not be in the Form which is given in that Section, but shall be in the Form following; that is to say,

'I *A. B.* do solemnly swear that I will, according to the best of my 5
' Skill and Knowledge, act in the Execution of my Office of
' faithfully, impartially, fairly, and
' without Prejudice or Disfavour, either for or against Claimants or
' Captors, or any other Persons; and that I will, to the best of my
' Judgment and Power, act in pursuance of and according to the 10
' Stipulations, Regulations, and Instructions contained in the Treaty
' between Her Majesty and the United States of America, signed at
' Washington on the Seventh Day of April One thousand eight
' hundred and sixty-two.'

Recited Act to be read accordingly.

**2.** The recited Act, as from the Time of the passing thereof into a Law, shall be read and have Effect as if the Oath which, in accordance 15 with the Eighth Section of that Act is to be taken by Judges and Arbitrators were an Oath not in the Form which is given in that Behalf in that Section, but in the Form which is given in that Behalf in this Act, and the recited Act and this Act shall accordingly be read and have Effect as if they were One Act. 20

Short Titles.

**3.** The recited Act and this Act may for all Purposes be cited as follows; (that is to say,) the recited Act as the "African Slave Trade Treaty Act (No. 1.), 1862," this Act as the "African Slave Trade Treaty Act (No. 2.), 1862," and the recited Act and this Act together as the "African Slave Trade Treaty Acts (Nos. 1. and 2.), 25 1862."

20 *May* 1862. 25 Vict.

A

# B I L L

TO

## Appropriate certain Portions of Land lying between High and Low Water Mark, situate in the Parishes of Shoebury and Wakering in the County of Essex, as Ranges for the Use and Practice of Artillery.

WHEREAS certain Lands in the Parish of Shoebury in the County of Essex have been purchased in Fee, and certain other Lands therein and in the Parish of Wakering in the same County have been acquired for certain Terms of Years under the "Defence Act, 1842," and the "Ordnance Board Transfer Act, 1855," and are now vested in and possessed by Her Majesty's Principal Secretary of State for the War Department in trust for Her Majesty, the Particulars of which Premises and of his Estate and Interest therein are mentioned and set forth in the Schedule to this Act, and are shown and delineated on the Map or Plan made thereof and to be deposited with the Lords Commissioners of the Admiralty: And whereas the said Lands and Premises have been used and appropriated for the Establishment of a School of Gunnery and the Practice of Artillery, and large Sums of Money have been expended in the Erection of Barracks and Quarters for Officers and Soldiers at Shoebury aforesaid: Preamble. 5 & 6 Vict. c. 94. 18 & 19 Vict. c. 117.

said: And whereas it is alleged that Portion of the Lands and Premises which lies between High and Low Water Mark is subject to the Rights of Passage and Anchorage of Vessels in the Water or Sea flowing over the same, and at Low Water to certain other Rights of Grounding thereon: And whereas such alleged Rights, if suffered to continue, would very much interfere with and impede the useful Purposes intended to be effected by the Acquisition of the said Lands and Premises and by the Establishment of the School of Gunnery aforesaid, and would be highly detrimental to the Public Service; and for the Reasons aforesaid it is expedient that the same should be forthwith partially extinguished and the said Premises be kept free from all Vessels, Barges, and other Craft: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same as follows:

Spaces for the Practice of Artillery to be kept free and open, and to be marked by Buoys, &c.

**1.** So long as the Lands and Premises mentioned in the Schedule to this Act shall remain vested in or be possessed by Her Majesty's Principal Secretary of State for the War Department in trust as aforesaid, he shall from Time to Time as Occasion may require, cause to be marked out and distinguished by Buoys, or other sufficient Marks to be erected or fixed upon the said Lands and Premises, such Spaces or Distances thereon as he may judge necessary, not exceeding in Width as to each such Space *One thousand five hundred* Yards, to be kept free and open, and to order and direct that the several Spaces or Distances shall be appropriated to and for the sole Use and Purpose of Ranges for the Practice of Artillery.

Rights of Anchorage and Grounding to cease, and Notice to be given to the Admiralty, and advertised in Newspapers, and on Church Doors.

**2.** Whenever the said Principal Secretary shall have marked out and appropriated any Spaces or Distances for Ranges as aforesaid, all Rights (if any) of Anchorage and Grounding over or upon the same shall absolutely cease and determine, and a Notification thereof shall be made to the Lords of the Admiralty, and be published in the London Gazette, and by Advertisement in some Morning Newspaper and in some local Newspaper circulated in the said County of Essex, and by affixing the same on the Church Doors of the said several Parishes aforesaid.

No Vessel or Person to pass over Spaces which have been marked out.

Penalty.

**3.** If any Vessel, Barge, or other Craft, unless forced to remain thereon by Stress of Weather or other unavoidable Accident, shall anchor or ground upon any Range marked out in pursuance of this Act, then the Owner or Master of such Vessel, Barge, or other Craft, as the Case may be, shall on Conviction thereof before any Justice or Justices of the Peace forfeit and pay such a Sum, not less than *Forty Shillings* and not exceeding *Five Pounds* for every Offence,

Offence, as may be awarded against him, and such Penalty and also the reasonable Costs attending the Prosecution shall be duly ascertained and awarded, and shall be enforced and recovered as any pecuniary Penalties may be recovered under the Provisions of an Act passed in the Twelfth Year of Her Majesty, intituled "An "Act to facilitate the Performance of the Duties of Justices of the "Peace out of Sessions within England and Wales with respect to "Summary Convictions and Orders."

Saving Rights of Lords and Ladies of the Manors of South Shoebury and Wakering.

**4.** Nothing in this Act contained shall be construed to prevent the Entry of the Lords or Ladies of the Manors of South Shoebury and Wakering, their respective Servants or Agents, upon the Beach or Shore for the Purpose of exercising their Manorial or other Rights thereon, and of recovering or removing therefrom all Wrecks of the Sea, Jetsam, Flotsam, and Lagan Goods, Merchandise, or Effects whatsoever.

Short Title.

**5.** This Act may be cited for all Purposes as "The Artillery Ranges Act, 1862."

## THE SCHEDULE.

All the Land and Foreshore situate between High and Low Water Mark in the Parishes of North and South Shoebury and Wakering, in the County of Essex, being the South-western Part of certain Lands called the Maplin Sands, and lying in front of and abutting in Part upon Lands belonging to Her Majesty's Principal Secretary of State for the War Department, in other Part upon Lands belonging to the Lord of the Manor of Shoebury, in other Part upon Lands belonging to Welsh, Esq., and in other Part upon Lands belonging to Sir John Tyssen Tyrell, Bart., which said Lands and Foreshore are shown and delineated on the Map or Plan made thereof and deposited with the Lords Commissioners of the Admiralty by the Colours Red, Black, Green, and Brown respectively; the Lands coloured Red having been purchased by and being now vested in the said Principal Secretary and his Successors in Fee; the Lands coloured Black being held by the said Principal Secretary under a Lease bearing Date the First Day of March One thousand eight hundred and sixty-two, for the Term of Forty Years from the Twenty-fifth Day of March One thousand eight hundred and fifty-two; the Lands coloured Green being held by the said Principal Secretary under a Lease bearing Date the Fifth Day of May One thousand eight hundred and sixty, for the Term of Thirty-one Years from the Fifth Day of April One thousand eight hundred and sixty; and the Lands coloured Brown being held by the said Principal Secretary under a Lease bearing Date the Thirteenth Day of September One thousand eight hundred and fifty-four, for the Term of Fifty Years from the Twenty-fifth Day of March One thousand eight hundred and fifty-one.

# Assurances Registration (Ireland) Bill.

## ARRANGEMENT OF CLAUSES.


Short Title of Act; Sect. 1.

Act to extend to Ireland only; 2.

Interpretation Clause; 3.

Repeal of former Acts, but not so as to invalidate existing Appointments; 4.

Or to destroy Priority of Assurances already registered; 5.

Registration under this Act of any Instrument directed to be registered under former Registration Acts valid; 6.

Defective Registration made valid in certain Cases; 7.

Certain Cases in which defective Registration shall not be made valid by this Act; 8.

Commencement of Act. Existing Books, &c. to be preserved; 9.

Landed Estates Court to superintend Register Office; 10.

Register Office to consist of certain Officers; 11.

Filling up Vacancies in the said Office; 12.

Registrar not to sit in House of Commons; 13.

Payment of Officers on permanent Staff; 14.

Payment of temporary Officers; 15.

Salaries, &c. to be paid out of Fees of Office; 16.

Certain Officers to hold their Offices during good Behaviour; 17.

Officers to act in Person; 18.

Account to be kept of Monies received for Fees; 19.

No Fees to be taken but what are specified in Schedule (2.) to be paid; 20.

Fees not to be paid in Money, but by Stamps; 21.

Stamps to be impressed or affixed; 22.

Provisions of Acts relating to Stamps to be applicable to Stamps for collecting Fees; 23.

No Document to be received or used unless stamped; 24.

Officers may be dismissed for Fraud or wilful Neglect in relation to Stamps; 25.

All Persons may search Books and Indexes, and take Notes thereof, upon paying daily Fee, &c.; 26.

Duties of Attorneys, &c. fulfilled by causing Searches to be made, &c.; 27.

Assurances may be registered; 28.

Assurance effectual according to Priority of Time of registering; 29.

Assurance not registered, void against Assurance registered; 30.

What Assurance to be registered must state; 31.

How Registration to be effected; 32.

Witness to prove Execution of Assurance to be registered by Affidavit before Registrar; 33.

Or if out of County Dublin, before Judges at Assize, &c.; 34.

Attorney to certify Memorial; 35.

Registration to be effected against Ordnance Names only; 36.

When Ordnance Names not in Assurance, Attorney or Solicitor to state them in his Certificate on the Memorial; 37.

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A

# BILL

TO

## Consolidate and amend the Laws relating to the Registration of Assurances in Ireland.

Preamble. 2 & 3 W. 4. c. 87. s. 1.

WHEREAS by an Act of Parliament made in Ireland in the Sixth Year of the Reign of Queen Anne, intituled "An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any Honours, Manors, Lands, Tenements, or Hereditaments," a public Register Office was established in the City of Dublin; and by other Acts of Parliament made in Ireland, and by certain Acts of Parliament of the United Kingdom, various Provisions have from Time to Time been made in respect of such Register Office: And whereas it is expedient to repeal the several Acts of Parliament now in force in Ireland in regard to the Registration of Deeds, and to consolidate and amend the Laws relating thereto: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title of Act.

1. This Act may be cited for all Purposes as the "Registration of Assurances Act, Ireland, 1862."

Act to extend to Ireland only.

**2.** This Act shall extend to Ireland only.

Interpretation Clause.

**3.** In the Construction of this Act (except where the Context or other Provisions of this Act require a different Construction) the Word "Assurance" shall extend to a Contract; the Word "Will" shall extend to a Codicil, or to an Appointment by Will or by Writing in the Nature of a Will, in exercise of a Power; the Word "Grantor" shall apply to any Person by whom Lands, Tenements, or Hereditaments shall be conveyed, appointed, charged, or otherwise affected; the Word "Registrar" shall include the Assistant Registrars or any other Officer of the Register Office directed by the Rules herein-after mentioned to perform any of the Duties by this Act devolving on the Registrar; and every Person claiming derivatively under any Assurance, Will, or other Instrument shall be considered as claiming under the same.

Repeal of former Acts, but not so as to invalidate existing Appointments,

**4.** From and after the said *Thirty-first Day of December One thousand eight hundred and sixty-two*, the several Acts and Parts of Acts set forth in the First Schedule to this Act annexed shall be and the same are hereby from that Date repealed, except as to anything heretofore done, or any Right acquired or Liability incurred, and except so far as any of the said Acts repeal any former Act or Part of an Act, and except so far as may be necessary for the Purpose of supporting or continuing any Proceeding heretofore taken or to be taken, or the Appointment of any Registrar or other Officer appointed or to be appointed, before the said *Thirty-first Day of December One thousand eight hundred and sixty-two*, and except as to the Recovery and Application of any Penalty or Damages for any Offence or Neglect committed before the said *Thirty-first Day of December One thousand eight hundred and sixty-two.*

or to destroy Priority of Assurances already registered. 2 & 3 W. 4. c. 87. s. 1.

**5.** Every Assurance registered under any of the several Acts of Parliament repealed by the preceding Section of this Act shall have the same Priority as the same would have had if this Act had not been passed.

Registration under this Act of any Instrument directed to be registered under former Registration Acts valid.

**6.** Registration under this Act shall have the same Effect and Force in respect of any Instrument specially directed by any Act of Parliament to be registered as if the same had been registered under the Acts hereby repealed, or any of them.

Defective Registration

**7.** If it shall appear that the Registration of any Assurance registered prior to the said *Thirty-first Day of December One thousand eight*

*eight hundred and sixty-two* is defective, by reason of the Memorial thereof not being written on Vellum or Parchment, or not being directed to the Registrar, or not being attested by two Witnesses, or not stating the Day of the Month and Year when such Assurance bears Date and was perfected, or the Names and Additions of all the Witnesses to such Assurance, or the Abodes of the Witnesses to such Memorial, or by reason of any formal Omission or Defect in the Affidavit of the Witness proving the signing and sealing of such Memorial, the Execution of the Assurance mentioned in such Memorial, and the Day and Time of the Delivery of such Memorial to the Registrar, then and in every such Case the Registration of any such Assurance, without any Amendment or further Registry, shall be as good and valid as the same would have been if there had been no such Defect in the Registration thereof.

made valid in certain Cases. 3 & 4 W. 4. c. 74. s. 8.

**8.** Provided always, That where the Registration of an Assurance shall, before the *passing of this Act*, have been pronounced by competent Authority wholly invalid, such Registration shall not be rendered valid by this Act; and where the Registration of any Assurance shall, before the *passing of this Act*, have been pronounced by competent Authority invalid as to some only of the Parties thereto, or as to some only of the Lands therein comprised, such Registration shall not be rendered valid by this Act, so far as the same shall have been pronounced invalid; and where any Person who would have been barred by any Assurance, if well registered, shall, before the *passing of this Act*, have had any Dealings with the Lands comprised in such Assurance on the Faith of the Registration of the same being invalid, such Registration shall not be rendered valid by this Act; and this Act shall not render valid the Registration of any Assurance as to Lands of which any Person shall, at the Time of the *passing of this Act*, be in possession, in respect of any Estate which such Assurance, if well registered, would have defeated; nor shall this Act prejudice or affect any Proceedings at Law or in Equity at the Time of the passing of this Act, in which the Validity of the Registration of any Assurance shall be in question between the Party claiming under such Assurance and the Party claiming adversely thereto, and the Registration of such Assurance, if the Result of such Proceedings shall be to invalidate the same, shall not be rendered valid by this Act; and if such Proceedings shall abate or become defective in consequence of the Death of the Party claiming under or adversely to such Assurance, any Person who, but for this Act, would have a Right of Action or Suit by reason of the Invalidity of the Registration of such Assurance, shall retain such Right, so that he commence Proceedings within *Six* Calendar Months after the Death of such Party.

Certain Cases in which defective Registration shall not be made valid by this Act. 3 & 4 W. 4. c. 74. s. 12.

Commencement of Act. 2 & 3 W. 4. c. 87. s. 1.

**9.** From and after the said *Thirty-first Day of December One thousand eight hundred and sixty-two* this Act shall come into operation, and the Office established by said recited Act of the Sixth Year of the Reign of Queen Anne shall be carried on under the Provisions herein-after contained; and all Books and Documents theretofore at any Time used or kept in the said Register Office shall be Public Property, and be preserved in the said Office, and not be removed therefrom.

Existing Books, &c. to be preserved. 2 & 3 W. 4. c. 87. s. 9.

Landed Estates Court to superintend Register Office.

**10.** The Direction, Management, and Superintendence of all Departments in the said Register Office shall devolve on the Judges of the Landed Estates Court.

Register Office to consist of certain Officers. 2 & 3 W. 4. c. 87. s. 2. & 21 & 22 Vict. c. 72. s. 9.

**11.** The Establishment of the said Register Office shall consist of a Registrar, Two Assistant Registrars, and so many Clerks and Officers as the Lord Lieutenant of Ireland, with the Sanction of the Commissioners of Her Majesty's Treasury, shall from Time to Time think fit.

Filling up Vacancies in the said Office. 21 & 22 Vict. c. 72. s. 12.

**12.** The Registrar, Assistant Registrars, and other permanent Clerks and Officers of the said Office, upon the Death, Resignation, or Removal of the Persons now respectively holding those Offices, or to be appointed from Time to Time under the Provisions of this Act, shall be appointed by the Lord Lieutenant of Ireland.

Registrar not to sit in House of Commons. 2 & 3 W. 4. c. 87. s. 36.

**13.** No Person holding the Office of Registrar under this Act shall be capable of being elected or of sitting as a Member of the House of Commons.

Payment of Officers on permanent Staff. 21 & 22 Vict. c. 72. s. 13.

**14.** There shall be paid to the several Officers who shall be appointed under the Provisions of this Act such Salaries, at such Times and in such Manner as the Commissioners of Her Majesty's Treasury shall approve, upon the Recommendation of the Judges of the Landed Estates Court, with the Approval of the Lord Lieutenant of Ireland.

Payment of temporary Officers.

**15.** It shall be lawful for the Judges of the Landed Estates Court, on any temporary Pressure arising in the said Register Office, to represent the same, together with the Causes thereof, to the Commissioners of Her Majesty's Treasury, and thereupon it shall be lawful for the said Commissioners to sanction the temporary Appointment by the said Judges of One or more Supernumerary Clerks or other Officers, and the Payment to such Clerks or other Officers of such Sums

Sums of Money at such Times and in such Manner as to the said Commissioners shall seem fit.

Salaries, &c. to be paid out of Fees of Office. 2 & 3 W. 4. c. 87. ss. 3. and 35.

**16.** All Salaries and other Payments authorized by this Act shall be paid out of such Monies as shall be provided by Act of Parliament for that Purpose.

Certain Officers to hold their Offices during good Behaviour. 21 & 22 Vict. c. 72. s. 14.

**17.** The Registrar and Assistant Registrars (as well those now in Office as those hereafter to be appointed) shall hold their Offices during good Behaviour, subject to be removed by the joint Order of the Judges of the Landed Estates Court, with the Sanction of the Lord Lieutenant of Ireland, for some reasonable Cause to be in the said Order expressed; and all other Officers of the said Register Office shall be removeable by the joint Order of the said Judges, with the Sanction of the Lord Lieutenant of Ireland.

Officers to act in Person. 21 & 22 Vict. c. 72. s. 16.

**18.** The Registrar and Assistant Registrars shall execute their respective Offices in Person, and not by Deputy, unless where a Deputy for the Execution of any such Offices shall be appointed for that Purpose by the Lord Lieutenant of Ireland in the Case of temporary Illness or other unavoidable Accident; and no Officer of the said Register Office shall, during the Term of his holding such Office, directly or indirectly practise as a Barrister or Attorney, or participate in the Fees of any other Person so practising.

Accounts to be kept of Monies received for Fees. 2 & 3 W. 4. c. 87. s. 4.

**19.** Accounts shall be kept of all Sums of Money received and paid in the said Office, in such Manner as the Judges of the Landed Estates Court shall from Time to Time direct; and the Balance, if any, shall be paid into the Consolidated Fund, or to such Account at such Times and in such Manner as the Commissioners of Her Majesty's Treasury shall from Time to Time appoint.

No Fees to be taken but what are specified in Sched. (2.) to be paid. 2 & 3 W. 4. c. 87. s. 5.

**20.** There shall be paid and payable in the said Office the several Fees only which are specified in the Second Schedule hereto, and no other Fee or Fees whatsoever: Provided always, that it shall be lawful for the Commissioners of Her Majesty's Treasury to reduce, alter, or vary the said Fees, or any of them, to the Intent that the same shall be justly apportioned, and that no greater Fees shall be charged than will amount to a Sum sufficient to discharge the Expenses of the said Register Office.

Fees not to be paid in

**21.** *None of the Fees specified in the Second Schedule hereto shall be received in Money, but the same shall be received by a Stamp*

Money, but by Stamps. 20 & 21 Vict. c. 79. s. 104.

*Stamp denoting the Amount of the Fee which otherwise would be payable: Provided always, that the Judges of the Landed Estates Court may order any Fees which cannot, in their Opinion, conveniently be collected by Stamps to be received in Money: And provided also, that it shall be lawful for the Registrar of the said Office to require, in all Cases where he shall think it proper so to do, that an Amount sufficient to cover all Fees and Stamp Duties payable in the said Office, or a reasonable Sum on account thereof, shall be deposited in Advance.*

Stamps to be impressed or affixed.

**22.** *The Stamps denoting the Amount of Fees payable in the said Register Office, as well as the Stamps denoting the Amount of Stamp Duty payable on the several Documents issuing from the said Office, shall be impressed or affixed, or partly impressed and partly affixed, as the Judges of the Landed Estates Court shall from Time to Time direct, with the Approval of the Commissioners of Inland Revenue.*

Provisions of Acts relating to Stamps to be applicable to Stamps for collecting Fees. 20 & 21 Vict. c. 79. s. 105.

**23.** *The Fees to be collected by means of Stamps under the Provisions of this Act shall be deemed "Stamp Duties," and shall be placed under the Management of the Commissioners of Inland Revenue, to be collected and paid into the Exchequer under the same Laws and Regulations as those made in respect of the other Duties of "Stamps;" and the Provisions in the several Acts for the Time being in force relating to Stamps under the Care or Management of the Commissioners of Inland Revenue shall, in all Cases not hereby expressly provided for, be of full Force and Effect with respect to the Stamps to be provided under or by virtue of this Act, and to the Vellum, Parchment, or Paper on or to which the same Stamps shall be impressed or affixed, and be applied and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively; but a separate and distinct Account of all Money received in respect of the said last-mentioned Stamps for every Year ending the Thirty-first Day of December shall be laid before both Houses of Parliament within One Month after the Termination of such Year of Accounts, or, if Parliament be not then sitting, within One Month after the Commencement of the next Session of Parliament.*

No Document to be received or

**24.** *No Document which under this Act ought to have a Stamp in respect of such Fee impressed thereon or affixed thereto shall be received*

*received or filed, or be used or be of any Validity, for any Purpose whatever, unless or until the same shall have the proper Stamp impressed thereon or affixed thereto: Provided, that if at any Time it shall appear that any such Document has, through Mistake or Inadvertence, been received or filed or used without having such Stamp impressed thereon or affixed thereto, it shall be lawful for One of the Judges of the Landed Estates Court, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto; and thereupon, when a Stamp shall have been impressed on such Document or affixed thereto in compliance with any such Order, such Document and every Proceeding in reference thereto shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.*

Documents used unless stamped. 20 & 21 Vict. c. 79. s. 105.

**25.** *If any Officer of the said Register Office, or any other Person employed under this Act, shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected, or which ought to be collected, by means of any such Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission, whereby any Fee or Money which ought to be collected by means of a Stamp under this Act shall be lost, or the Payment thereof evaded, every such Officer or Person so offending shall be dismissed from his Office or Employment, if the Judges of the Landed Estates Court shall think fit so to order.*

Officers may be dismissed for Fraud or wilful Neglect in relation to Stamps. 20 & 21 Vict. c. 79. s. 107.

**26.** Subject to such Regulations as may be made from Time to Time by the Judges of the Landed Estates Court, and to the Payment of the Fees specified in the said Second Schedule hereto, every Person, on Application at the said Register Office, shall be allowed to inspect and search such of the Indexes and other Books kept or to be kept at the said Register Office as aforesaid, and to examine and inspect such of the Documents deposited or to be deposited in said Register Office as aforesaid, as shall by the said Regulations be kept for Public Inspection, and to take Extracts from such Indexes, Books, or Documents as aforesaid; and the Registrar shall, upon the Delivery of such Requisitions as under such Regulations may be required in this Behalf, give Negative and other Certificates of the Results of Searches; and every such Certificate shall be signed by the Registrar.

All Persons may search Books and Indexes, and take Notes thereof, upon paying daily Fee, &c. 13 & 14 Vict. c. 72. s. 52.

**27.** In every Case in which it shall be the Duty of any Attorney or Solicitor to make any Search in any of the Indexes kept or to be kept at the said Register Office, such Attorney or Solicitor shall be held

Duties of Attornies, &c. fulfilled by causing

Searches to be made, &c. 13 & 14 Vict. c. 72. s. 53.

held to have fulfilled his Duty in that Behalf, by making an Application at the said Register Office for such Search to be made, and obtaining a Certificate of the Result of the same, and shall not be responsible for any Error or Mistake in the Result of such Search, as stated in such Certificate; and in all other Cases every Attorney or Solicitor shall stand indemnified in relying on the Accuracy of any Certificate to be made or given in pursuance of this Act.

Assurances may be registered. 6 Anne, c. 2. s. 3.

**28.** Any Assurance containing the Particulars herein-after mentioned, whereby any Lands, Tenements, or Hereditaments in Ireland may be any ways affected, may be registered in such Manner as is herein-after directed.

Assurance effectual according to Priority of Time of registering. 6 Anne, c. 2. s. 4.

**29.** Every Assurance which shall be registered in pursuance of this Act shall be deemed and taken as good and effectual, both in Law and Equity, according to the Priority of Time of registering such Assurance for and concerning the Lands, Tenements, and Hereditaments in such Assurance or the Certificate of Registration thereon mentioned or contained, according to the Right, Title, and Interests of the Person or Persons so assuring such Lands, Tenements, and Hereditaments, against all and every other Assurance or Disposition of the Lands, Tenements, and Hereditaments, or any Part thereof, comprised or contained in any such Assurance or Certificate thereon, as first aforesaid.

Assurance not registered void against Assurance registered. 6 Anne, c. 2. s. 5.

**30.** Every Assurance not registered of all or any of the Lands, Tenements, and Hereditaments comprised or contained in such an Assurance or Certificate thereon which shall be registered in pursuance of this Act shall be deemed and adjudged as fraudulent and void, not only against such Assurance registered as aforesaid, but likewise against all and every Creditor and Creditors by Judgment or Recognizance confessed, acknowledged, or entered into, whose Claims in respect of such Judgment or Recognizance shall legally bind all or any of the Lands, Tenements, and Hereditaments contained or expressed in such Assurance registered as aforesaid, or the Certificate thereon, in priority thereto.

What Assurance to be registered must state.

**31.** Any Assurance, to be entitled to Registration under this Act, must state the Names of the Lands affected by it, and also the Barony and County in which each Denomination of Land, or (in the case of Premises in a City or Town) the Name of the Streets, Parish, and City or Town, in which each distinct Part of the Premises comprised in such Assurance is situate, or (in the Case of an Advowson or Right of Presentation to a Benefice) the Name of the Parish, Barony, and County.

**32.** Regis-

How Registration to be effected.

**32.** Registration of an Assurance shall be effected by depositing in the Register Office a Memorial containing a concise Abstract of all the material Parts of such Assurance, or (at the Option of the Party presenting such Assurance for Registration) a Counterpart or certified Copy of such Assurance, and by Entries being made in the proper Indexes to be kept in the said Register Office under the Provisions of this Act.

Witness to prove Execution of Assurance to be registered by Affidavit before Registrar.

**33.** A Witness to the Execution of any Assurance to be registered shall, by Affidavit to be made before the Registrar or One of the Assistant Registrars, prove the Execution of such Assurance by each or any of the Grantors who shall have executed the same; and in case such Assurance shall not have been executed by all the Grantors therein, in the Presence of the same Witness, then the Execution thereof by each of the Grantors who shall have executed the same may be proved by the Affidavit of a Witness to the Execution of each of such Grantors respectively as shall have executed the said Assurance: Provided always, that such Assurance shall be registered in the Index of Names herein-after mentioned against such Grantors only whose Execution shall have been proved as herein-before specified.

Or if out of County Dublin, before Judges at Assize, &c.

25 G. 3. c. 47. s. 3.

**34.** In all Cases where the Lands, Tenements, or Hereditaments contained in any Assurance are not situate in the County of Dublin, or in the County of the City of Dublin, a Memorial of such Assurance shall be entered by the Registrar, in case an Affidavit containing the Particulars required by the last Section, and sworn before the Justices of the Peace at the General Quarter Sessions of the County where such Lands, Tenements, or Hereditaments lie, or before a Person commissioned for taking Affidavits in the County, pursuant to the Act of Parliament in that Case made and provided, and for which a Sum of *One Shilling and Sixpence* shall be paid to the Person or Persons taking such Affidavits, shall be brought with the Memorial to the said Registrar.

Attorney to certify Memorial.

**35.** The Attorney or Solicitor who shall have prepared any Assurance, or if such Assurance was not prepared by an Attorney or Solicitor, or if for any sufficient Cause the Attorney or Solicitor who prepared the Assurance cannot be employed, then an Attorney or Solicitor employed to register the same, shall certify in Writing on the Memorial thereof that he has compared such Memorial with the original Assurance, and that such Memorial contains a correct and sufficient Abstract of all the material Parts of such Assurance.

Registration to be effected against

**36.** The Ordnance Maps of Ireland shall form the Basis of the Land Registration herein-after provided, and every Assurance brought into

Ordnance Names only.

into the said Register Office for Registration shall be registered only against the Townland or Townlands on the said Ordnance Maps in which the Premises comprised in such Assurance lie.

When Ordnance Names not in Assurance, Attorney or Solicitor to state them in his Certificate on the Memorial.

**37.** Whenever any Assurance brought into the said Register Office for Registration shall not state in what Townland or Townlands on the said Ordnance Maps the Premises comprised in such Assurance lie, before such Assurance can be admitted to Registration the Attorney or Solicitor presenting the same for Registration shall certify in Writing on the Memorial thereof in what Townland or Townlands on said Ordnance Maps the Premises comprised in such Assurance lie; and thereupon such Assurance shall be registered against such Townland or Townlands on said Ordnance Maps, and the Registrar shall state in his Certificate of Registration that he has registered such Assurance against such Townland or Townlands on the said Ordnance Maps, in pursuance of the Certificate of such Attorney or Solicitor that the Premises comprised in such Assurance lie in such Townland or Townlands on the said Ordnance Maps.

Attorney signing false Certificate guilty of a Misdemeanor.

**38.** Any Attorney or Solicitor who shall wilfully sign a false Certificate shall be and is hereby declared and adjudged to be guilty of a Misdemeanor.

Priority to extend only to Names and Lands against which Assurance registered.

**39.** For the Purposes of the Priority and Rights given to an Assurance registered under this Act, such Assurance shall be deemed as executed only by the Grantors against whose Names the same shall have been registered, and as comprising only the Lands against which the same shall have been registered.

Registrar shall see that Assurance is properly stamped. 56 G. 3. c. 56. s. 99.

**40.** Whenever any Assurance or other Instrument which shall be subject to any Stamp Duty shall be delivered for Registry to the Registrar, he shall, before the same shall be so registered, examine carefully such Assurance or Instrument, and the Stamp thereon, as directed by an Act of Parliament passed in the Fifty-sixth Year of the Reign of King George the Third, intituled "An Act to repeal the "several Stamp Duties in Ireland, and also several Acts for the "Collection and Management of the said Duties, and to grant new "Stamp Duties in lieu thereof, and to make more effectual Regula-"tions for collecting and managing the said Duties," and the several Acts amending the same, and shall be liable to the Penalties provided by the said recited Acts in case he shall offend against the Provisions contained in them or any of them.

Assurance and Memorial to be

**41.** Every Assurance to be registered shall be lodged, together with a Memorial thereof, and a certified Copy of such Memorial, with

with the Registrar, who shall inspect them; and if he is satisfied that the Memorial contains a correct and sufficient Abstract of the Assurance to be registered, and that such Assurance is entitled to Registration under this Act, he shall register the same, and certify such Registration under his Hand on such Assurance; and such Certificate shall (at the Option of the Registrar) be prepared in the said Register Office, or by the Attorney or Solicitor requiring the same, and shall state the Particulars of the Registration and the Names of all Grantors against whom such Assurance has been registered, and also, if necessary, the Particulars required by the Thirty-fifth Section of this Act.

lodged together or Examination.

Registrar to register Assurance. 6 Anne, c. 2. s. 9.

And sign Certificate of Registration. 6 Anne, c. 2. s. 7.

**42.** Every Assurance (or other Instrument herein-after authorized to be registered) shall be deemed to be registered against any Person or any Parcel of Land as of the Time when the same shall have been handed in to the Registrar, with all Documents and Information necessary to enable him to register the same against such Person or Parcel of Land.

From what Time Registration takes effect.

**43.** Any Will proved as to Real Estate, in pursuance of the Provisions of "The Probates and Letters of Administration Act, Ireland, 1857," may be registered in such Manner as is herein-after directed.

Probates or Letters of Administration may be registered.

**44.** It shall be lawful for the Court of Probate, upon being satisfied as to the Fact, to annex to any Letters of Administration granted by such Court a Certificate to the Effect that the Deceased died intestate as to his Real Estate; and it shall be lawful for the Lord Chancellor, with such Advice and Assistance as is provided by the said "Probates and Letters of Administration Act (Ireland), 1857," to make Rules and Orders for carrying the Provisions of this Section into effect; and such Rules and Orders may from Time to Time be repealed, amended, or altered, and other Orders made in lieu thereof, in the Manner prescribed by the said recited Act.

Court of Probate may issue Certificate of Intestacy as to Real Estate.

Chancellor to make Rules. 20 & 21 Vict. c. 79. s. 35.

**45.** Any Certificate of Intestacy as to Real Estate, issued in pursuance of the Provisions contained in the preceding Section, may be registered in such Manner as is herein-after directed.

Certificate of Intestacy may be registered.

**46.** Any Assurance for valuable Consideration executed by the Devisee or Devisees taking under such registered Will, or by the Heir or Heirs of any Party, a Certificate of whose Intestacy shall have been registered as aforesaid, shall be deemed and taken as good and effectual both in Law and Equity, according to the Priority of Time of registering such Assurance, for and concerning the Lands, Tenements, and Hereditaments in such Assurance, or the Certificate

Effect of Registration of Probate or Certificate of Intestacy. 6 Anne, c. 2. s. 4.

of Registration thereon endorsed, mentioned or contained, according to the Right, Title, and Interests of the Testator or Intestate in such registered Will or Certificate, against all and every other Assurance, Will, Revocation of a Will, or Disposition executed by the said Testator or Intestate, of the Lands, Tenements, and Hereditaments, or any Part thereof, comprised or contained in any such Assurance as first aforesaid.

Assurance or Will of Testator or Intestate not registered void against registered Assurance of Devisee or Heir.

6 Anne, c. 2. s. 5.

**47.** Every Assurance or Will executed by such Testator or Intestate, and not registered, which shall be made and executed, of all or any of the Lands, Tenements, and Hereditaments comprised or contained in any Assurance executed by such Devisee or Devisees, Heir or Heirs, as aforesaid, and registered in pursuance of this Act, shall be deemed and adjudged as fraudulent and void, not only against such Assurance registered as aforesaid, but likewise against all and every Creditor and Creditors by Judgment or Recognizance, confessed, acknowledged, or entered into, whose Claims in respect of such Judgment or Recognizance shall legally bind all or any of the Lands, Tenements, and Hereditaments contained or expressed in such Assurance registered as aforesaid in priority thereto.

Court of Probate may recall Registration of Probate or Certificate of Intestacy:

**48.** Provided always, That it shall be lawful for the Court of Probate to order that the Registration of any Will or Certificate of Intestacy shall be recalled from the Registry, and upon Production of any such Order the Registrar shall file the same, and annex a Note thereof to the several Documents and Entries affected thereby.

But not so as to invalidate prior registered Assurance for Value.

**49.** Provided nevertheless, That no Assurance for valuable Consideration shall be in any way affected by any Order recalling the Registration of any such Will or Certificate, unless such Order shall be noted on the Registry prior to the Registration of such Assurance.

Devisee or Heir if Registration recalled after Assurance executed, to hold Purchase Money for Persons beneficially interested in Land, &c. assured.

**50.** Any Devisee or Devisees, Heir or Heirs, who shall fraudulently assure any Lands, Tenements, or Hereditaments under the Provisions herein-before contained, shall be deemed to hold the Purchase Money on an express Trust for the Person or Persons beneficially entitled to the said Lands, Tenements, or Hereditaments; but if such Devisee or Devisees, Heir or Heirs, shall innocently assure such Lands, Tenements, or Hereditaments, then he or they shall be liable for the Amount of such Purchase Money in an Action to be brought by the Party or Parties beneficially interested, within such Period only as said Party or Parties beneficially interested could have recovered the Lands, Tenements, or Hereditaments so assured from such Devisee or Devisees, Heir or Heirs, in case such Assurance had not been made.

**51.** Regis-

How Registration of a Probate or Certificate of Intestacy effected.

**51.** Registration of a Will or of a Certificate of Intestacy shall be effected by depositing in the Register Office an Office Copy of the Probate of such Will, or the Letters of Administration with such Will annexed, or of such Certificate, and by Entries being made in the proper Indexes to be kept in the said Register Office in pursuance of this Act.

Registrar to register Probate or Certificate of Intestacy.

**52.** The Registrar shall register any such Will or Certificate of Intestacy, and certify such Registration under his Hand on such Probate, Letters of Administration with such Will annexed, or Certificate.

Affidavit of Ownership may be registered.

**53.** Every Affidavit made and filed by any Creditor under any Judgment, Decree, Order, or Rule under an Act of Parliament passed in the Fourteenth Year of the Reign of Her present Majesty, intituled "An Act to amend the Laws concerning Judgments in Ireland," and the Act amending the same, may be registered under this Act in the Manner prescribed by the said recited Acts, and when registered under this Act shall have all the Qualities, Privileges, Advantages, and Liabilities provided by the said recited Act for Affidavits registered in pursuance thereof.

Affidavit to state Lands, &c. as on Ordnance Maps.

**54.** Provided always, That such Affidavit shall not be entitled to Registration unless the Names of the Townland or Townlands mentioned therein be those appearing on the Ordnance Maps of Ireland, and unless the Barony and County in which each Townland is situate, or (in the Case of Premises in a City or Town) the Parish and City or Town in which each Street is situate, shall be stated in such Affidavit.

Certificate of Vesting Order may be registered.

**55.** Every Certificate of any Vesting Order made in pursuance of the "Irish Bankrupt and Insolvent Act, 1857," may be registered under this Act in the manner prescribed in the said last-recited Act, and when registered under this Act shall have all the Qualities, Privileges, Advantages, and Liabilities provided by the said recited Act for Certificates registered in pursuance thereof.

Lis pendens may be registered.

**56.** When there shall be depending in any Court in Ireland any Suit or Matter instituted after this Act shall have come into operation, whereby any Lands, Tenements, or Hereditaments in Ireland may be in any ways affected, the Party or Parties concerned may register a Certificate of the Pendency of such Suit or Matter (which Certificate is herein-after called a Lis pendens) in such manner as is herein-after directed.

Effect of Registration of Lis pendens.

**57.** So soon as any Lis pendens shall be registered, all Assurances Wills, or other Dispositions affecting the Lands, Tenements, or Hereditaments against which such Lis pendens shall be registered and made by any Person or Persons against whom such Lis pendens shall be registered, his, her, or their Heirs, Executors, Administrators, or Assigns, shall be subject and without Prejudice to the Result of such depending Suit; and all such Persons as aforesaid shall be bound by any Judgment, Decree, Rule, or Order made in such Suit, and affecting the Lands, Tenements, and Hereditaments against which such Lis pendens shall be registered as aforesaid.

No registered Assurance to be affected by any Suit unless same registered as a Lis pendens.

**58.** No Assurance for valuable Consideration shall be in any way affected by the Existence of any Suit or Matter (instituted after this Act shall have come into operation) depending in any Court in Ireland, unless a Certificate of the Pendency of such Suit or Matter shall be registered under this Act within Five Years previous to the Registration of such Assurance.

Registry of Lis pendens how effected.

**59.** Registration of a Lis pendens shall be effected by depositing the same in the Register Office, and by Entries being made in the proper Indexes to be kept in the said Register Office under the Provisions of this Act.

Affidavit of Persons and Premises affected by any Suit to be filed.

**60.** A Party interested in the Result of the Suit shall, by Affidavit to be made before the Registrar, or before a Person commissioned for taking Affidavits in the Country pursuant to the Act of Parliament in that Case made and provided, specify by the Name or Names thereof on the Ordnance Maps of Ireland the Townland or Townlands affected by such Suit, together with the Barony and County in which each Townland is situate, or (in the Case of Premises in a City or Town) the Name of the Street, Parish, and City or Town in which each distinct Part of the Premises mentioned in such Affidavit is situate, and also the Name of each Party to such Suit whose Interest in such Lands may be affected thereby.

Registrar to register Lis pendens.

**61.** The Registrar shall register any Lis pendens, and in lieu of a Certificate of Registration any Party may take out an Office Copy of such Lis pendens and Affidavit.

Certificate of Registration, &c. to be Evidence of Registry.
6 Anne, c. 2. s. 7.

**62.** The Certificate of Registration endorsed on any Assurance, on the Probate of any Will, on the Letters of Administration with any Will annexed, or on any Certificate of Intestacy or other Instrument, or the Office Copy of any Affidavit of Ownership, Certificate of a Vesting Order, or Lis pendens, signed by the Registrar, shall be conclusive Evidence that such Assurance, Will, Certificate of Intestacy,

testacy, or other Instrument, Affidavit of Ownership, Certificate of a Vesting Order, or Lis pendens, has been duly registered against the Persons and Premises named therein, or in the Certificate thereon; and that all Formalities required by this Act, and also by the said recited Acts of the Fourteenth Year of the Reign of Her present Majesty, and the Act amending the same, for a valid Registration, have been fully complied with.

Registrar to refuse incorrect Memorial, &c.

**63.** If any Memorial does not contain a correct and sufficient Abstract of all the material Parts of the Assurance whereof it is a Memorial, or if such Memorial and Assurance do not conform to the Regulations herein-before contained, or if any Affidavit of Ownership, or any Affidavit accompanying a Lis pendens, do not conform to the said Regulations, or if any Affidavit of Ownership does not conform to the Regulations in the said recited Act of the Fourteenth Year of the Reign of Her present Majesty, and the Act amending the same, contained, with reference to the Particulars to be stated in such Affidavit, or if for any Reason the Registrar thinks that any Instrument brought in for Registration should not be received, it shall be his Duty to refuse to admit such Instrument to Registration, giving, if required, a Certificate under his Hand stating the Reason of such Refusal.

Priority to be enforced in Equity notwithstanding Notice. 13 & 14 Vict. c. 72. s. 29.

**64.** The Priority or Rights given by the Provisions herein-before contained to any Person claiming for valuable Consideration under a subsequent Assurance, Will, or other Instrument, shall not be taken away by any Court of Equity in consequence of such Person having been affected with Notice, unless he shall have been guilty of actual Fraud; and where, under the Provisions herein-before contained, Priority or Rights shall be given to any Person claiming for valuable Consideration under a subsequent Assurance an equitable Estate or Interest, such Priority or Rights shall be enforced in Equity, although the Person claiming under such subsequent Assurance shall have been affected with Notice.

Indexes, &c. to be provided.

**65.** There shall be provided in the said Register Office, previous to the said *Thirty-first Day of December One thousand eight hundred and sixty-two*, a Series of Books to be called the "Index of Names," a Second Series of Books to be called the "Index of Lands," and also a Book to be called "The Abstract Book"; and all such Books shall be kept in Duplicate at the least.

Indexes, &c. to be kept as directed by General Rules.

**66.** The "Index of Names" and "Index of Lands" shall be kept in such Manner as shall be directed by the Rules to be made as herein-after provided.

 **67.** An

Abstracts of Memorials, &c. to be entered in Abstract Book.

**67.** An Abstract of every Memorial, Will, Certificate of Intestacy, Affidavit of Ownership, Certificate of a Vesting Order, and Lis pendens, shall be entered in the "Abstract Book" in such Manner and with such References as shall be directed by the said Rules so to be made as aforesaid.

Note of Memorial, &c. to be entered in Indexes of Lands and Names.

**68.** A Note of every Memorial, Affidavit of Ownership, and Lis pendens, shall be entered in the "Index of Names" and "Index of Lands" under the different Heads, in such Manner and with such References as shall be directed by the said Rules so to be made as aforesaid.

Note of Certificate of Vesting Order to be entered in Index of Names.

**69.** A Note of every Will, Certificate of Intestacy, and Certificate of a Vesting Order, shall be entered in the "Index of Names," or such other Book in lieu thereof, in such Manner and with such References as shall be directed by the said Rules so to be made as aforesaid.

Judges of Landed Estates Court to make Rules. 21 & 22 Vict. c. 72. s. 30.

**70.** The Judges of the Landed Estates Court, on or before the *First Day of December next*, shall, after Conference with the Registrar, prepare such a Code of General Rules as they may think best adapted for giving effect to the Provisions and Objects of this Act, and for the Regulation and Management of the said Register Office, in respect of all Matters not herein-before particularly provided for, and shall thereby especially direct the Mode of keeping the several Indexes and Abstract Book herein-before mentioned, and may direct, if they shall think fit, that any other Book or Books shall be kept in such Office in addition to those herein-before mentioned, or they may dispense with the keeping of any of the said Books, as Occasion may require, and may thereby also direct that any Assurance or other Instrument executed by any public Officer or Officers in the Discharge of his or their official Duties shall not be registered as against such Officer or Officers in the "Index of Names:" Provided always, that every such Code of General Rules shall be laid before the Lord Chancellor of Ireland; and the Lord Chancellor thereupon, with the Assistance of the Lord Justice of Appeal, shall consider the Expediency of such Rules and every of them; and it shall be lawful for the Lord Chancellor, with the Concurrence of the Lord Justice of Appeal, by Order signed by him, to confirm or disallow all or any of such Rules, or to alter or amend, and confirm with such Alterations or Amendment, any of such Rules, or to remit any of such Rules to the said Judges for further Consideration, or to frame any additional Rule or Rules; and every such General Rule or Rules (when the same shall have been so confirmed by Order of the Lord Chancellor) shall be enrolled in the High Court of Chancery in Ireland,

Ireland, and when so enrolled shall be of the same Force and Effect as if the same had been enacted by Authority of Parliament: Provided also, that any Rules so confirmed and enrolled as aforesaid may from Time to Time be added to, rescinded, amended, or altered, as Occasion may require, by other Rules made by the Judges for the Time being, after Conference with the Registrar as aforesaid, and confirmed and enrolled in like Manner: And provided also, that it shall be lawful for any Two of the Judges of the said Court to lay any Rule or Rules before the Lord Chancellor which such Judges may think expedient, whereupon the Lord Chancellor may proceed with respect to such Rule or Rules as if the same had been prepared and laid before him by all the Judges of the said Court.

General Rules to be laid before Parliament. 21 & 22 Vict. c. 72. s. 32.

**71.** Such Code of General Rules as shall be made and confirmed as aforesaid shall be laid before Houses of Parliament within *One Calendar Month* from the Enrolment thereof, if Parliament be then sitting, or, if Parliament be not then sitting, within *One Calendar Month* from the Commencement of the next Session of Parliament.

Judges to frame Forms, &c. 21 & 22 Vict. c. 72. s. 29.

**72.** The said Judges, after Conference with the Registrar as aforesaid, shall frame and cause to be printed and circulated or promulgated, as they shall see Occasion, Forms of Memorials, of Requisitions for Searches, of Certificates of Searches, and of Certificates of Registration of Assurances, and also such other Forms and Directions as they may deem requisite or expedient for facilitating Proceedings under this Act.

A Judge of the Landed Estates Court may order Registry of any Instrument rejected by Registrar.

**73.** Any Judge of the Landed Estates Court may, on reading the Certificate of the Registrar, giving his Reason for refusing to admit any Instrument to Registration, order the Registration of such Instrument, if he shall think fit, (whether the same shall conform to the Requirements of this Act or not), on such Terms as the said Judge shall deem just and consistent with the Spirit of the Provisions herein-before contained.

Or may order Registration of any Instrument on Production of a Copy or Extract. 13 & 14 Vict. c. 72. s. 47.

**74.** Any Judge of the Landed Estates Court may, upon reasonable Evidence being laid before him of the Loss or Destruction of any original Instrument, or (if there be Duplicates) of the several original Instruments, and on Production of a Copy or Extract from such Original, or any of the Duplicates, direct that such Instrument may be registered in such Manner and on such Terms as to the said Judge shall seem just and consistent with the Spirit of the Provisions contained in this Act.

Party interested may require any

**75.** Any Person having an Interest in any Lands under any Assurance or other Instrument by this Act authorized to be registered,

Instrument to be registered.
13 & 14 Vict. c. 72. s. 19.

tered, which has not been registered, may require any Person in possession of the original Document, or (if there be Duplicates) any One of the original Documents, or (where the original Document or the several original Documents is or are lost) a Copy of or (in case where no Copy is known to exist) an Extract from the original Document, or of or from any of the original Documents, to deliver or send the same at or to the said Register Office, for the Purpose of its being registered; and in case the Person in whose Possession the same shall be refuse to do so, it shall be lawful for any Judge of any of the Superior Courts of Law at Westminster, or for any Judge of the Landed Estates Court in Ireland, upon a summary Application, to make such Order respecting the Delivery or sending of such Document, or Copy or Extract as aforesaid, at or to the said Register Office for the Purpose aforesaid, as to such Judge, in the Exercise of his Discretion, shall, under the Circumstances of the Case, appear proper: Provided always, that this Enactment shall not authorize any Person to require or enforce the Registration of any Assurance, or Copy or Extract, in case any Agreement or Provision has been made for the Non-registration of such Assurance by him or by any Person from or through whom he derives an Interest under such Assurance.

Registrar to confer with Judge in Cases of Doubt.

**76.** The Registrar or either of the Assistant Registrars shall, in any Case of Difficulty or Doubt arising in the Execution of their several Duties, apply to a Judge of the Landed Estates Court, and take his Directions in relation thereto, and no Registrar or Assistant Registrar shall be answerable for any Act bonâ fide done in pursuance of such Directions.

Mode of hearing Complaints against Officers, &c.
2 & 3 W. 4. c. 87. s. 28.

**77.** Upon any Complaint made on Oath before any of the Judges of the Landed Estates Court, of any Neglect, Default, or Misconduct of the Registrar, or any Assistant Registrar, or Clerk employed in the said Register Office, it shall be lawful for any of such Judges, and they are hereby severally required, in open Court, to hear and determine such Complaint in a summary Manner; and such Judge, if he shall think proper, may examine upon Oath the Party complaining, and the Party complained against, and dismiss the Complaint with reasonable Costs, if the Complaint shall appear frivolous or vexatious, or award Compensation to the Complainant, or impose a pecuniary Penalty or Fine upon the Party complained against, to any Amount not exceeding the Sum of *One hundred Pounds*, or adjudge the Party complained of to be removed from his Place in the said Office, or order that out of any Salary that may be due or that shall accrue to the Person against whom such Judgment shall have been given such Penalty, Fine, or Compensation aforesaid shall be paid and

and discharged; and where such Penalty or Fine shall be imposed, the Amount of such Penalty shall be paid into the said Register Office, and shall be applied as if the same had accrued from Fees paid in the said Office.

Printing may be introduced.

78. And whereas it may be possible shortly to make use of Printing and other scientific Improvements in lieu of Scrivenery for the various Purposes of the said Register Office: Be it therefore enacted by the Authority aforesaid, That the Judges of the Landed Estates Court may, at any Time that they think it expedient so to do, with the Assent of the Commissioners of Her Majesty's Treasury, direct that Printing or any other scientific Improvement shall be introduced and made use of in the said Register Office.

On Introduction of Printing Judges may modify Rules, &c.

79. So soon as Printing or other scientific Improvement shall be introduced into the said Register Office in lieu of Scrivenery, it shall be lawful for the said Judge (notwithstanding anything herein contained to the contrary), by General Rules to be made as hereinbefore provided, to substitute for a Memorial of any Assurance or other Instrument a full Copy or Counterpart thereof, and to direct in what Manner such Copy or Counterpart shall be made, and how authenticated for Registration, and generally to make such further and other Rules for the Management and Regulation of the said Register Office, and the Mode of conducting the Business thereof, as the Introduction of Printing or other scientific Improvements shall render necessary or useful.

Commissioners of Treasury may apply surplus Receipts of Fees to completing Indexes, &c. 2 & 3 W. 4. c. 87. s. 34.

80. It shall be lawful for the Commissioners of Her Majesty's Treasury, from Time to Time, out of such Monies as may be provided by Parliament for that Purpose, to defray the Expenses of compiling, transcribing on Parchment, and completing any Abstracts, Transcripts, or Indexes at present remaining incomplete in the said Office, and of printing the same, or any Part or Parts thereof, and also of preparing the new Books by this Act directed to be prepared, and also of introducing Printing or other scientific Improvements into the said Register Office.

Act not to extend to short Leases, &c. 6 Anne, c. 2. s. 14. and 13 & 14 Vict. c. 72. s. 61.

81. This Act shall not extend to any Lease or Leases for Years not exceeding *Twenty-one* Years, where the actual Possession goes along with the said Lease, and the Rent reserved thereby is not less than *Three Fourths* of the actual letting Value of the Land comprised therein, and provided the said Lease shall not contain any Covenant for Renewal, or to such Transfers and other Assurances of or relating to the Shares in any public or private Works or Undertaking of any Corporation, Company, or Society, as by virtue of any

Local or other Act of Parliament are or shall be required to be registered or otherwise entered or minuted in the Books of the Corporation, Company, or Society.

Registration under this Act to operate as Enrolment.

**82.** Registration under this Act shall have the same Effect as Enrolment on any Assurance required by any Act of Parliament to be enrolled; and where, by any Act of Parliament, any Assurance is directed to be enrolled, it shall be a sufficient Compliance with the Direction of such Act to register such Assurance under this Act; provided that such Assurance shall be registered under this Act within the Period limited by any such Act for the Enrolment of any such Assurance.

Office Copy of Memorial, &c. to be Evidence. 2 & 3 W. 4. c. 87. s. 32.

**83.** In all Proceedings before any Court of Justice a Copy of any Memorial, Affidavit, or other Document lodged in the said Office, purporting to be signed by the Registrar or either of the Assistant Registrars, shall be received and taken as Evidence of the Contents of the Memorial, Affidavit, or other Document of which it purports to be a Copy, without the Production of the original Memorial, Affidavit, or other Document.

Punishment for forging Signature required by this Act, &c. 13 & 14 Vict. c. 72. s. 62.

**84.** If any Person shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting, the Name, Signature, or Handwriting of any Officer of the said Register Office in any Case in which the Signature of such Officer is or shall be required or authorized to be made, or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting, the Name, Signature, or Handwriting of any Person whomsoever to any Document which is or shall be required or directed to be signed by such Person, or shall, with an Intention to defraud any Person whomsoever, use any Document the Signature of which shall be so forged or counterfeited as aforesaid, knowing the same to be forged or counterfeited, or shall sign his own Name, or cause or procure the Signature of the Name of any other Person, to any Certificate or other Writing requiring to be signed by an Officer of the said Register Office, or shall use any such Certificate or other Writing, with the Intent to defraud thereby any Person whomsoever, any such Person so offending, being thereof lawfully convicted, shall be and is hereby declared and adjudged guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding *Four* Years nor less than *One* Year.

FIRST

## FIRST SCHEDULE to which the foregoing Act refers.

1. An Act of Parliament made in Ireland in the Sixth Year of the Reign of Queen Anne, intituled "An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any Honours, Manors, Lands, Tenements, or Hereditaments." 6 Anne, c. 2.

2. An Act of Parliament made in Ireland in the Eighth Year of the Reign of Queen Anne, intituled "An Act for amending an Act, intituled 'An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any Honours, Manors, Lands, Tenements, or Hereditaments.'" 8 Anne, c. 10.

3. An Act of Parliament made in Ireland in the Eighth Year of the Reign of King George the First, intituled "An Act for explaining and amending Two several Acts in relation to the public registering of all Deeds, Conveyances, and Wills." 8 G. 1. c. 15

4. The Tenth Section of an Act of Parliament made in Ireland in the Fifth Year of the Reign of King George the Second, intituled "An Act for the further explaining and amending the several Laws for preventing Frauds committed by Tenants; and for the more easy Renewal of Leases; and for the further Amendment of the Law in certain Cases therein mentioned." 5 G. 2. c. 4.

5. The Second Section of an Act of Parliament made in Ireland in the Thirty-third Year of the Reign of King George the Second, intituled "An Act for repealing an Act passed in this Kingdom in the Eighth Year of the Reign of King George the First, intituled 'An Act for the better securing the Payment of Bankers' Notes,' and for providing a more effectual Remedy for the Security and Payment of Debts due by Bankers." 33 G. 2. c. 14.

6. An Act of Parliament made in Ireland in the Session held in the Twenty-first and Twenty-second Years of the Reign of King George the Third, intituled "An Act to promote Trade and Manufacture by regulating and encouraging Partnerships." 21 & 22 G. 3. c. 46.

7. An Act of Parliament made in Ireland in the Twenty-fifth Year of the Reign of King George the Third, intituled "An Act for amending the several Laws relating to the registering of Wills and Deeds in the Registry Office of this Kingdom, and for the better regulating and conducting the Business of the said Office." 25 G. 3. c. 47.

8. The Twelfth and Thirteenth Sections of an Act of Parliament made in the Fifty-sixth Year of the Reign of King George the Third, intituled "An Act to amend the Law of Ireland respecting the Recovery of Tenements from absconding, overholding, and defaulting Tenants, and for the Protection of the Tenant from undue Distress." 56 G. 3. c. 88.

9. An Act of Parliament made in the Third Year of the Reign of King George the Fourth, intituled "An Act for the more convenient and effectual registering in Ireland Deeds executed in Great Britain." 3 G. 4. c. 116.

10. An Act of Parliament made in the Ninth Year of the Reign of King George the Fourth, intituled "An Act to provide for the Regulation of the 9 G. 4. c. 57.

Public Office for registering Memorials of Deeds, Conveyances, and Wills in Ireland."

10 G. 4. c. 50. 11. The Sixty-second Section of an Act of Parliament made in the Tenth Year of the Reign of King George the Fourth, intituled "An Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks, and Chases of the Land Revenue of the Crown within the Survey of the Exchequer in England, and of the Land Revenue of the Crown in Ireland, and for extending certain Provisions relating to the same to the Isles of Man and Alderney."

2 & 3 W. 4. c. 87. 12. An Act of Parliament made in the Second and Third Years of the Reign of King William the Fourth, intituled "An Act to regulate the Office for registering Deeds, Conveyances, and Wills in Ireland."

11 & 12 Vict. c. 120. 13. The first Nine Sections of an Act of Parliament made in the Eleventh and Twelfth Years of the Reign of Queen Victoria, intituled "An Act to facilitate the Transfer of Landed Property in Ireland," as far as they relate to the Office for the Registration of Deeds, Conveyances, and Wills in Ireland.

## SECOND SCHEDULE to which the foregoing Act refers.

| | £ | s. | d. |
|---|---|---|---|
| Upon every Memorial, Probate, Letters of Administration with the Will annexed, Certificate of Intestacy, Certificate of Bankruptcy or Insolvency, Affidavit of Ownership, or Lis pendens received into the Office at the Time of the Delivery thereof to be registered,— | | | |
| Where such Instrument shall contain not more than Seven Folios, each of Seventy-two Words | 0 | 8 | 0 |
| Above Seven, for every additional Folio or Part of a Folio (this Fee not to be charged where the Instrument is a Probate or Letters of Administration with the Will annexed | 0 | 0 | 6 |
| And for the Name of every Grantor beyond the first Grantor | 0 | 0 | 3 |
| For every separate Denomination of Land which shall have to be separately entered in the Index beyond the first | 0 | 0 | 3 |
| For every Second Certificate of Registry, or Special Certificate of Registry, if the same shall not exceed a Folio of Seventy-two Words | 0 | 0 | 6 |
| And every additional Folio thereof, or Part of a Folio | 0 | 0 | 6 |
| From every Person making Searches in the Office, including the Liberty of taking Notes or Abstracts each Day | 0 | 5 | 0 |
| For every original Memorial or Affidavit produced for Inspection in the Office | 0 | 0 | 6 |

For

| | £ | s. | d. |
|---|---|---|---|
| For common Searches made by the Office under a Requisition upon Names, for any Period not exceeding Ten Years, for each different Surname | 0 | 2 | 6 |
| For every additional Ten Years or fractional Part of Ten Years | 0 | 2 | 6 |
| And upon Lands, the like Fees for each Denomination or alias Denomination of Land. | | | |
| When both Names and Lands are stated in a Requisition, the Party desiring the Search may direct it to be confined to either Lands or Names. | | | |
| For every Copy of an Abstract of a Memorial, whether contained in a Certificate of Search or otherwise | 0 | 1 | 0 |
| Making Certified or Negative Search upon a Requisition upon Names, for any Period not exceeding Ten Years, for each different Surname required | 0 | 5 | 0 |
| For every additional Year beyond Ten Years | 0 | 0 | 6 |
| And upon Lands, the like Fees for each Denomination or alias Denomination of Lands. | | | |
| For each Copy of any Memorial or Certificate, not exceeding Three Folios | 0 | 1 | 6 |
| And for every additional Folio or Part of a Folio beyond Three Folios | 0 | 0 | 6 |
| Attending to produce any Memorial or Memorials in Dublin each Day for each Cause | 0 | 6 | 8 |
| The like out of Dublin | 0 | 13 | 4 |
| And for every Day beyond a Second Day, each | 0 | 13 | 4 |
| And for the Expenses of travelling to and from any Place at which such Attendance shall be required, for every Mile | 0 | 0 | 8 |

# Assurances Registration (Ireland).

A

# BILL

To consolidate and amend the Laws relating to the Registration of Assurances in Ireland.

*(Prepared and brought in by Sir Robert Peel and Mr. Solicitor General.)*

*Ordered, by* The House of Commons, *to be Printed*, 11 *April* 1862.

[Bill 91.]

*Under* 4 *oz.*

7 *April* 1862. 25 Vict.

A

# BILL

INTITULED

## An Act to explain an Act, intituled "An Act for "the better Government of Her Majesty's "Australian Colonies."

WHEREAS by an Act passed in the Session of Parliament holden in the Thirteenth and Fourteenth Years of Her Majesty, intituled "An Act for the better Government "of Her Majesty's Australian Colonies," it was enacted, that it should be lawful for the Governors and Legislative Councils of the Colonies of New South Wales, Victoria, Van Diemen's Land, and South Australia respectively, by any Act or Acts to establish in the said Colonies respectively, instead of the Legislative Council, a Council and House of Representatives or other separate Legislative Houses, to consist respectively of such Members to be appointed or elected respectively by such Persons and in such Manner as by such Act or Acts should be determined, and to vest in such Council and House of Representatives or other Legislative Houses the Powers and Functions of the Legislative Council for which the same might be substituted; provided always, that every Bill which should be passed by the Council in any of the said Colonies for any of such Purposes should be reserved for the Signification of Her Majesty's Pleasure thereon, and that a Copy of such Bill should be laid before both

Preamble.

13 & 14 Vict. c. 59.

Houses of Parliament for the Space of Thirty Days at the least before Her Majesty's Pleasure thereupon should be signified: And whereas Acts have been passed for the above Purposes in each of the said Colonies as well by the said first-mentioned Legislative Councils as by the Councils and Houses of Representatives or other separate Legislative Houses established instead of such Legislative Councils: And whereas Doubts have been entertained whether some Acts so passed may not be invalid by reason that the same were not reserved for the Signification of Her Majesty's Pleasure, or laid before both Houses of Parliament, as herein-before mentioned: And whereas Provision is made in some of the said Acts passed in the said Colonies respectively for subsequent Changes in the Constitution or Mode of Election or Appointment of the several Bodies composing the Colonial Legislature, subject to Provisions requiring that any Acts or Act for that Purpose should be reserved for the Signification of Her Majesty's Pleasure thereon, and under such Powers certain Acts have been passed by the said Colonial Legislatures, or some of them, as to the Validity of which Doubts have arisen by reason that the same were not reserved for the Signification of Her Majesty's Pleasure thereon: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Acts passed by certain Legislative Councils, and assented to by Governors, to be as effectual as if reserved for Her Majesty's Assent.

**1.** Every Act passed for the Purposes mentioned in the said first-recited Act, or any of them, by the Legislative Council of any of the said Colonies, and assented to in Her Majesty's Name by the Governor of such Colony, shall be deemed to be and to have been from the Date of such Assent as valid and effectual for all Purposes whatever as if the same Act had been reserved for the Signification of Her Majesty's Pleasure, and as if the same had been duly laid before both Houses of Parliament, and as if Her Majesty's Assent had been duly given to the same, and signified in the Colony at the Date aforesaid.

The Term "Council" to apply only to such Legislative Councils.

**2.** And be it further declared and enacted, The Term Council in the above-recited Proviso of the said first-recited Act shall be deemed to apply only to the Legislative Councils herein-before first mentioned.

Acts passed for altering Constitution of Legislative Bodies, so assented to, deemed valid.

**3.** And be it further enacted, That every Act passed by any Colonial Legislature established under any such Acts or Act as aforesaid, for altering the Constitution or Mode of Election or Appointment of any or either of the Legislative Bodies composing such Legislature, which may have been at any Time heretofore assented to in Her Majesty's

Majesty's Name by the Governor of the Colony in which the same shall have been passed, shall be deemed to be and to have been from the Date of such Assent as valid and effectual for all Purposes whatever as if the same Act had been reserved for the Signification of Her Majesty's Pleasure thereon, and as if Her Majesty's Assent had been duly given to the same, and signified in the Colony at the Date last aforesaid.

ment Act Amendment.

A

# BILL

INTITULED

An Act to explain an Act, intituled " An Act for the better Government of " Her Majesty's Australian Colonies."

(*Brought from the Lords,* 4 *April* 1862.)

*Ordered, by* The House of Commons, *to be Printed,* 7 *April* 1862.

[Bill 77.]

*Under* 1 *oz.*

A

# BILL

TO

## Cause the Votes of Parliamentary Electors to be taken by way of Ballot.

WHEREAS it is expedient, in the Election of Members to serve in Parliament that the Votes of the Electors be taken by way of Ballot: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. From and after the *passing of this Act*, at any Election for Members to serve in Parliament, the Returning Officer shall, if a Poll be demanded, cause as many Booths to be erected, or Rooms to be hired or otherwise obtained, at each Polling Place, as are by Law required, and the same shall be so divided and arranged as to the Returning Officer shall seem best adapted for carrying out the Provisions of this Act, but so that at each Booth or Room there shall be One or more inner Rooms and Compartments, as herein-after enacted, and the Returning Officer shall, before the Day fixed for the Polling, if a Poll be demanded, cause to be furnished for the Use of each such Booth or Room a sufficient Number of Copies of the Register of Electors for the Borough, City, or County for which such Election shall take place, and shall also provide for the Use of each such Booth or Returning Officer to cause Booths to be erected at each Polling Place, and to supply Ballot Boxes, and to furnish each Booth with Copies of Register of Electors.

Room a Ballot Box, with a secure Lock, and with an Aperture through which the Ballot Papers may be placed in such Ballot Box.

Deputy Returning Officers to be appointed. Duties of Returning Officers and their Deputies.

**2.** The Returning Officer at any Election where a Poll is demanded shall preside at One of the Booths appointed for taking the Poll at such Election, and shall appoint a Deputy Returning Officer to preside at each other Booth or Room, and it shall be the Duty of such Returning Officer and his Deputies to see that the Votes of the Electors are given according to the Provisions of this Act.

Candidates entitled to appoint Scrutineers. Declaration to be made by Returning Officer, Scrutineers, and Deputies. Returning Officers, Deputy Returning Officers, or Scrutineers violating Oath guilty of a Misdemeanor.

**3.** Each Candidate shall appoint One or more Persons, not exceeding *Three*, for each Booth, to be Scrutineers on his Behalf at such Election, and the Returning Officer and each Deputy Returning Officer and Scrutineer shall prior to the Commencement of the Poll make the following Declaration:

'I *A.B.*, the Returning Officer [*or* a Deputy Returning Officer, *or* Scrutineer,] appointed by *C.D.*, a Candidate at the Election of a Member [*or* Members] to serve in Parliament for the Borough, City, or County of do declare, That I will faithfully assist in the said Election, that I will not in any Manner interfere with any Elector when filling up his Ballot Paper, or attempt to ascertain the Name or Names of the Candidate or Candidates for whom any Elector at such Election shall record his Vote, and in case I shall become acquainted with the Name or Names of the Candidate or Candidates for whom any Elector shall record his Vote, then that I will not disclose to any Person whomsoever the Fact so coming to my Knowledge.'

And any Returning Officer, Deputy Returning Officer, or Scrutineer doing any Act in Contravention of such Declaration shall be deemed guilty of a Misdemeanor.

Returning Officer to cause Ballot Papers to be printed. Ballot Papers to be authenticated.

**4.** The Returning Officer, immediately after a Poll is demanded, shall cause to be printed a Number of Ballot Papers sufficient for the Number of Electors on the Register of Persons entitled to vote at such Election, and such Papers shall be of uniform Size and Colour, and in the Form prescribed in the Schedule to this Act, and the Names of all the Candidates on whose Behalf a Poll shall be demanded at such Election shall be printed in alphabetical Order thereon; and the Returning Officer, prior to the Commencement of the Poll, shall authenticate each such Paper by marking the same on the Back with a Stamp, to be provided by such Returning Officer.

Distribution of Ballot Papers.

**5.** On or before the Day of Polling the Returning Officer shall deliver to each Deputy Returning Officer a Number of the said Papers, so authenticated by him as required by this Act, sufficient for the

the Number of Electors entitled to vote at the Polling Place at which such Deputy is to preside, and retain a Number of such Papers sufficient for the Number of Electors entitled to vote at the Polling Booth at which he shall himself preside.

Publication of Names of Candidates.

6. The Returning Officer shall cause the Names of all the Candidates on whose Behalf a Poll shall be demanded to be painted or printed on Placards, One or more of which Placards shall be placed in each Booth or Room, and also in some conspicuous Position on the Outside of each Booth or Room.

Ballot Rooms to be provided.

Persons improperly entering or remaining in the inner Room to be guilty of a Misdemeanor.

7. At every Booth or other Place for taking the Poll at an Election the Returning Officer shall provide One or more inner Rooms, each containing as many separate Compartments, for the Purpose of enabling the Electors privately to mark their Papers, as the said Returning Officer shall think necessary, in which inner Room and Compartments no Person other than the Electors actually voting shall be entitled to be or remain: Provided always, that it shall be lawful for the Returning Officer or Deputy Returning Officer to permit any Constable or other Officer to enter such inner Room or Compartments for the Purpose of removing therefrom any Person or Persons who may obstruct the voting or wilfully violate any of the Provisions of this Act, and any Person improperly going into or remaining in the said inner Room or Compartments shall be guilty of a Misdemeanor.

Distribution of Ballot Boxes, and their Custody.

Candidates or Scrutineers entitled to see that Boxes empty.

8. The Returning Officer shall, on or before the Day appointed for taking the Poll at any Election, deliver to his Deputy appointed for each Polling Booth such a Box as herein-before referred to, which Box shall be, when delivered to such Deputy Returning Officer, locked and under the Seal of the Returning Officer, and the Returning Officer shall retain a Box so locked and sealed as aforesaid for the Polling Place where he himself shall preside, and each Deputy Returning Officer shall, during the said Poll, keep the said Boxes locked and sealed, and the Key of each such Box shall be kept during the Poll by the Person entitled to the Custody of the said Box, and during the taking of the Poll each such Box shall stand on a Table in the Polling Booth or Room in the Presence of the Returning Officer or his Deputy, and of the said Scrutineers: Provided always, that each Candidate, or any Scrutineer on his Behalf, may require to see that such Boxes are empty prior to their being locked and sealed as aforesaid.

Mode of Election.

Electors contravening

9. Each Elector, having first according to Law satisfied the Returning Officer or his Deputy that he is entitled to vote, and having also signed his Name or placed his Mark opposite to his Name upon

any Provision contained herein guilty of a Misdemeanor.

a Copy of the Register of Persons entitled to vote at such Election, shall receive from the Returning Officer or his Deputy a Paper in the Form prescribed in the said Schedule, and such Elector shall then take such Ballot Paper into a Compartment of the inner Room required by this Act to be provided in each Polling Booth for such Purpose, and shall there strike through the Name or Names of the Candidate or Candidates for whom he does not intend to vote, but so that if there be only One Member to be returned for such County, City, or Borough he only leave One Name not struck out, and if there be more than One Member to be returned for such County, City, or Borough, he does not leave the Names of more Candidates not struck out than there are Members to be returned for such County, City, or Borough, otherwise such Paper shall be invalid; and when such Elector shall have struck through the Name or Names of such Candidate or Candidates, such Elector shall fold up such Paper so as to exhibit only the Stamp or Authentication on the Back thereof by this Act required, and shall immediately place such Paper in such a Box as herein-before required to be provided, and each Elector shall leave the said inner Room or Compartment as soon as he has voted, and shall not re-enter the same during the Election, and no Two Electors shall be or remain in the same Compartment at the same Time, nor shall any Elector, after receiving any such Ballot Paper, take the same out of the said inner Room or Compartment, either before or after he has marked the same, except it may be necessary for the placing of the same when folded in the said Box, nor shall any Elector exhibit his Paper to any Person after the Names are erased; and the Returning Officer or his Deputy shall not allow any Papers taken away or exhibited contrary to the foregoing Provisions to be deposited in the said Box, but shall reject the same, and shall not give to any Elector more than One Paper; and any Elector wilfully offending against any of the Provisions in this Act contained shall be deemed guilty of a Misdemeanor.

Deputy Returning Officer, on Close of the Poll, to collect and seal up, in the Presence of Scrutineers, all Ballot Papers, and deliver same to Returning Officer with the least

**10.** Each Deputy Returning Officer shall, immediately on the Close of the Poll, and not before, in the Presence of the said Scrutineers, open the said Boxes, count the Papers therein, and the Votes given for each Candidate, and shall collect and seal up all the Papers which have been used at the Polling Place whereat he presided, and shall seal up in a separate Parcel all such Papers as shall not have been used, and in another separate Parcel any Ballot Papers which are invalid or informal or rejected, and the said Parcels shall be respectively marked on the Outside, "Election for ————," "Voting Papers used," "Voting Papers unused," and "Voting Papers rejected;" and each Deputy Returning Officer shall make out

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an Account, in which he shall state the Numbers polled for each Candidate, and charge himself with the Number of Papers delivered to him by the Returning Officer, and specify the Number delivered to and used by Voters, and the Number (if any) left unused, and the Number (if any) invalid or informal or rejected, and such Account shall be verified by his Signature, and by those of the said Scrutineers; and the said Deputy Returning Officer shall, with the least possible Delay, deliver or cause to be delivered, under Seal, the said Account, together with the Copy of the Register of Electors so signed by the Electors who shall have voted, and also all the said Parcels, to the Returning Officer of the County, City, or Borough for which the Election shall take place. possible Delay.

**11.** The Returning Officer of each County, City, or Borough shall, at the Close of the Poll, in the Presence of the Scrutineers appointed for each Candidate, open the Ballot Box used at the Polling Place at which such Returning Officer shall have presided, and shall count the Papers, and seal them up in such Parcels, and make out such an Account, as herein-before mentioned, and shall, with as little Delay as possible, publicly, and in the Presence of at least One Scrutineer on behalf of each Candidate, open and examine the Accounts and Parcels of the Voting Papers delivered to him by such Deputy Returning Officer, and ascertain their Correctness, and shall make out an Account of the aggregate Number of Votes given for each Candidate, which Account shall be verified by his Signature and by that of at least One Scrutineer on behalf of each Candidate; and the said Returning Officer shall, at the Place of Nomination, at such Time as by Law appointed, openly declare the general State of the Poll at the Close of the Election, as the same shall have been so made up and ascertained by him from the Papers taken at the several Polling Places, and shall at the same Time and Place declare the Name or Names of the Person or Persons who shall be elected at such Election. Returning Officer to declare State of Poll.

**12.** In ascertaining the Votes given for each Candidate, any Paper on which the Names of more Candidates than can be returned at the Election are left not struck out, and any Paper which shall bear the Name of any Voter, or any Mark, Impression, or Device designed to distinguish such Paper from other Papers, shall be invalid, and not counted as a Vote. Papers marked to distinguish them from others to be invalid.

**13.** The Returning Officer shall forward, under Seal, without Delay, to the Clerk of the Crown, all the Papers used, unused, and rejected at such Election; and all such Accounts and signed Copies of the Register as herein-before required to be made out, and the Provisions Papers and Accounts to be forwarded to the Clerk of the Crown.

for the safe Custody of Poll Books contained in the Ninety-third Section of the Statute made and passed in the Sixth Year of Her present Majesty Queen Victoria, intituled "An Act to amend the "Law for the Registration of Persons entitled to vote, and to define "certain Rights of Voting, and to regulate certain Proceedings in the "Election of Members to serve in Parliament for England and "Wales," shall extend and apply to such Papers, Accounts, and Copies, and the said Section shall be considered, held, and treated as incorporated in this Act.

Papers, &c. to be destroyed.

**14.** All such Papers, Accounts, and Copies shall be kept by the said Clerk of the Crown until after the Expiration of the Time within which a Petition against the Return of the Member or Members chosen at such Election can be presented, and shall then be destroyed.

Provision for Electors blind or unable to read.

**15.** Any Elector who may be blind or unable to read shall signify the same to the Returning Officer or his Deputy, who shall thereupon mark or strike out the Names of such Candidates as such Elector may designate.

Persons tampering with Voting Papers or Boxes guilty of a Misdemeanor.

**16.** Any Person who shall in any Manner tamper with any Voting Paper given or used at any Election, or with any Box provided for the Reception of Votes, or who shall do any Act whereby the Result of such Election shall or may be affected, defeated, or falsified, or the Votes given at any Election, or any of them, shall or may be falsified, or made of no Effect, shall be guilty of a Misdemeanor.

Repeal of former Acts.

**17.** All Acts and Parts of Acts inconsistent with this Act are repealed.

# SCHEDULE.

FORM OF VOTING PAPER TO BE USED AT ELECTIONS.

[County, City, *or* Borough] of
Election of [*here insert Number*] Members.

CANDIDATES.

[*Here insert Names of Candidates alphabetically.*]

DIRECTIONS.

The Voter is to strike out the Name or Names of the Candidate or Candidates for whom he does not intend to vote by drawing a Line through the same.

He must be careful not to leave not struck out the Names of more Candidates than are capable of being returned, namely [*here insert Number*] Members, otherwise his Vote will be of no Effect.

If he cannot read, he may require the Returning Officer or Deputy Returning Officer to strike out for him such Name or Names as he may direct.

The Ballot Paper so marked by or for the Voter is to be dropped by him into the Ballot Box, folded so as to exhibit only the Stamp on the Back.

The Voter is not to take his Ballot Paper out of the Ballot Room or Polling Booth, nor to exhibit his Paper after the Names are erased to any Person, otherwise his Vote will be of no Effect.

If this Paper bears the Name of any Voter, or any Mark, Impression, or Device designed to distinguish it from other Papers, it will be invalid, and not counted as a Vote.

# Ballot.

A

# BILL

To cause the Votes of Parliamentary Electors to be taken by way of Ballot.

(*Prepared and brought in by Mr. Henry Berkeley and Lord Fermoy.*)

*Ordered, by* The House of Commons, *to be Printed*, 30 *May* 1862.

[Bill 142.]

*Under* 1 *oz.*

A

# BILL

TO

## Allow the Votes of Municipal Electors to be taken by way of Ballot, in all Places where the Town Council shall so think fit.

WHEREAS it is expedient that the Law relating to Municipal Elections in England and Wales should be amended as to the Mode and Manner in which the Votes of the Electors at the same are taken; Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** The Votes of the Burgesses at any Election of Councillors to be held for any Borough or Ward shall be taken by Ballot instead of by Voting Papers as at present required, in all Places where the Majority of the Council of any Borough shall so agree and determine. Votes of Burgesses at Municipal Elections to be taken by Ballot.

**2.** The Mode, Manner, and Machinery of taking such Votes by Ballot shall in all respects be settled and determined by the Town Council as they may think fit. Mode of taking Votes by Ballot to be settled by Council.

**3.** Every Plan and Scheme for taking Votes by Ballot having been fixed and determined by the Town Council shall be signed by the Plan of voting to be published

and remain in force for Five Years.

Mayor and published for the Information of the Burgesses, and such Mode of taking Votes shall remain in force, and shall not in any respect be altered for the Term of *Five* Years from the Adoption thereof.

Power to alter Mode in which Voting Papers delivered to Mayor.

**4.** The Majority of the Council of any Borough shall further have Power to alter the Mode and Manner in which Voting Papers, as at present required, shall be delivered to the Mayor and Assessors, or other presiding Officer, and may provide Balloting Glasses and Boxes in which the Electors shall deposit their Voting Papers, folded up, according to the Form now practised under the Seventeenth and Eighteenth Clauses of the Metropolis Local Management Act, Eighteenth and Nineteenth Victoria, Chapter One hundred and twenty in the Metropolitan Districts.

A

# BILL

TO

## Amend the Bankruptcy Act (1861) so far as it affects certain Clerks and Officers of the late Insolvent Debtors Court.

Preamble.

WHEREAS by the First Section of an Act of the Session of the Fifth and Sixth Years of the Reign of King William the Fourth, Chapter Forty-two, intituled "An Act to "authorize the granting of Superannuation Allowances to the "Commissioners and Officers of the Courts for the Relief of "Insolvent Debtors," Power is given to the Commissioners of Her Majesty's Treasury to grant to any of the Officers of the Court for the Relief of Insolvent Debtors in England who shall be, from Age or Infirmity of Mind or Body, incapable of discharging the Duties of his Office, or whose Office shall cease or be abolished by Law, a Superannuation Allowance, in the same Manner and upon the same Conditions as it would be granted under the Provisions of the Act of the Session of the Fourth and Fifth Years of the Reign of King William the Fourth, Chapter Twenty-four: And whereas by "The Superannuation Act, 1859," it is provided that the said First Section of the said Act of the Fifth and Sixth Years of the Reign of King William the Fourth shall be construed as if the said Superannuation Act of 1859 were referred to in the said Section instead

instead of the said Act of the Fourth and Fifth Years of the Reign of King William the Fourth: And whereas at and previously to the Date of the passing of "The Bankruptcy Act, 1861," the Persons named in the Schedule hereto were holding Offices in the said Court for the Relief of Insolvent Debtors in England, and such Persons, together with other Officers of the said Court, were by the said Act transferred to the London Court of Bankruptcy: And whereas it is expedient that the said Bankruptcy Act, 1861, should be amended so far as relates to the Transfer of the Officers named in the said Schedule, and that their Offices should be forthwith abolished, and the Holders of such Offices become entitled to Superannuation Allowance accordingly: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Abolition of Offices of Persons named in Schedule.

**1.** The Offices of the several Persons named in the Schedule hereto shall be abolished from and after the *passing of this Act*, and the Holders of such Offices shall become entitled to Superannuation or Compensation Allowance accordingly.

Grant of additional Allowance to Persons named in Schedule.

**2.** Where the Amount of Remuneration in Salary or Fees, or both in Salary and Fees, received by any of the Persons named in the said Schedule on account of any Offices held by them during the Period intervening between the Date of their being transferred in manner aforesaid to the Bankruptcy Court and the Date of the passing of this Act, is less than the Amount that they would have received in respect of Superannuation or Compensation Allowance if their Offices had been abolished at the Date of such Transfer, the Commissioners of the Treasury shall, out of Monies to be provided by Parliament for that Purpose, make up the Deficiency between the Amount actually received by them and the Amount they would have received if their Offices had been abolished in respect of such Superannuation Allowance as aforesaid.

Calculation of Superannuation Allowance.

**3.** For the Purpose of calculating the Amount of Superannuation Allowance due to each of the Persons named in the said Schedule, the annual Emolument of such Person shall be deemed to have been the Sums set opposite his Name in the Second and Third Columns of the said Schedule, and such further Sums, if any, as the Commissioners of the Treasury may, if they think fit, add in respect of Lodging or other Allowances enjoyed by such Person at the public Expense.

SCHE-

# SCHEDULE.

THE NAMES of PERSONS formerly employed in the Insolvent Debtors Court, and for whom no Employment has been found since the Abolition of that Court.

| NAME. | Date of Appointment. | Salary. | Average Fees for Seven Years. | TOTAL. |
|---|---|---|---|---|
| | | £ | £ s. d. | £ s. d. |
| Yeo, R. W. (Order Clerk) | 1840 | 100 | 225 15 0 | 325 15 0 |
| Clark, G. (Registrar) | 1831 | 150 | 599 14 1 | 749 14 0 |
| Wiggins, Samuel (Broker) | 1840 | Nil | 514 2 8 | |
| Arrowsmith, J. (Ditto) | 1847 | Nil | 514 2 8 | |
| Paterson, A. (Ditto) | 1841 | Nil | 514 2 8 | |
| Brown, G. (Service Messenger) | 1851 | Nil | 195 4 7 | |
| Michael, R. (Ditto) | 1854 | Nil | 210 11 6 | |
| Chalkeley, J. B. (Ditto) | 1860 | Nil | 210 8 9 | |
| Bull, R. (Service Messenger) | 1856 | Nil | 199 19 3 | |
| Hat, C. (Usher) | 1858 | 80 | Nil | |
| Walsh, Edward (Messenger) | 1854 | 80 | Nil | |
| Laurie, G. N. W. (Usher) | 1859 | 80 | Nil | |
| Burden, J. W. (Assistant Book-keeper) | 1859 | 63 | Nil | |
| Snellgrove, J. (Messenger) | 1847 | 80 | Nil | |
| Lambert, Mrs. (Housekeeper) | 1816 | 50 | Nil | |
| Bester, Mrs. (Ditto) | 1844 | 40 | Nil | |
| Snellgrove, Miss (Ditto) | 1850 | 50 | Nil | |
| West, W. A. (Service Messenger) | 1828 | Nil | 264 14 4 | |
| Bacon, W. H. (Ditto) | 1831 | Nil | 240 8 10 | |
| Powell, W. H. (Ditto) | 1842 | Nil | 262 12 0 | |
| Coe, J. H. (Ditto) | 1843 | Nil | 236 7 6 | |

# Bankruptcy Act (1861) Amendment.

A

# B I L L

To amend the Bankruptcy Act (1861) so far as it affects certain Clerks and Officers of the late Insolvent Debtors Court.

(*Prepared and brought in by Mr. Peel and Mr. Attorney General.*)

*Ordered, by* The House of Commons, *to be Printed*, 22 *July* 1862.

[Bill 223.]

*Under* 1 *oz.*

# Bastardy (Ireland) Bill.

## ARRANGEMENT OF CLAUSES.

Preamble.

The putative Father to be summoned to Petty Sessions on Application of Mother of Bastard; Sect. 1.

Justices in Petty Sessions may make an Order on the putative Father for Maintenance and Costs; 2.

Mode of enforcing Order; Proviso; 3.

Applications to be made within Forty Days; Appeal to Quarter Sessions for the putative Father; 4.

Money under the Order to be paid to the Mother or to a Person appointed by the Justices; Time of Cessation of Order; 5.

Officers of Unions not to receive Money under the Order or to interfere in any respect; Proceedings against putative Father in case of Death or Incapacity of Mother; 6.

Misapplying Monies, or maltreating a bastard Child; 7.

A

# BILL

TO

## Render putative Fathers of bastard Children in Ireland liable for their Maintenance.

WHEREAS it is expedient to make Provision for rendering the putative Fathers of bastard Children in Ireland liable for the Maintenance of such Children: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** Any single Woman who may be with Child, or who may be delivered of a bastard Child, after *the passing of this Act*, may either before the Birth, or at any Time within *Twelve* Months from the Birth of such Child, or at any Time thereafter, upon Proof that the Man alleged to be the Father of such Child has within the *Twelve* Months next after the Birth of such Child paid Money for its Maintenance, make Application to any One Justice of the Peace acting for the Petty Sessional Division of the County, or for the City, Borough, or Place in which she may reside, for a Summons to be served on the Man alleged by her to be the Father of such Child; and if such Application be made before the Birth of the Child, the Woman shall make a Deposition upon Oath stating who is the Father of such Child, The putative Father to be summoned to Petty Sessions on Application of Mother of Bastard.

Child, and such Justice of the Peace shall thereupon issue his Summons to the Person alleged to be Father of such Child to appear at a Petty Sessions to be holden after the Expiration of *Six* Days at least for the Petty Sessional Division, City, Borough, or other Place in which such Justice usually acts.

Justices in Petty Sessions may make an Order on the putative Father for Maintenance and Costs.

**2.** After the Birth of such bastard Child, on the Appearance of the Person so summoned, or on Proof that the Summons was duly served on such Person, or left at his last Place of Abode *Six* Days at least before the Petty Sessions, the Justices in such Petty Sessions may, on the Consent and Admission of the Person so summoned, adjudge him to be the putative Father of such bastard Child, and in default of such Consent and Admission shall hear the Evidence of such Woman, and such other Evidence as she may produce, and shall also hear any Evidence tendered by or on behalf of the Person alleged to be the Father; and if the Evidence of the Mother be corroborated in some material Particular by other Testimony, to the Satisfaction of the said Justices, they may adjudge the Man to be the putative Father of such bastard Child; and they may also, if they see fit, having regard to all the Circumstances of the Case, proceed to make an Order on the putative Father for the Payment to the Mother of the bastard Child, or to any Person who may be appointed to have the Custody of such Child under the Provisions of this Act, of a Sum of Money weekly, and of such Costs as may have been incurred in the obtaining of such Order, including, if they think proper, *Ten Shillings* for the Midwife, and *Ten Shillings* towards the Funeral Expenses of the Child, provided it have died before the making of such Order; and if the Application be made before the Birth of the Child, or within *Two* Calendar Months after the Birth of the Child, such weekly Sum may, if the said Justices think fit, be calculated from the Birth of the Child, at a Rate not exceeding *Five Shillings* per Week for the First *Six* Weeks after the Birth of such Child; and in other Cases such Sum shall not exceed *Two Shillings and Sixpence* per Week from the Time of the making of the Application.

Mode of enforcing Order.

**3.** If at any Time after the Expiration of *One Calendar Month* from the making of such Order as aforesaid it be made to appear to any One Justice, upon Oath or Affirmation, that any Sum to be paid in pursuance of such Order has not been paid, such Justice may, by Warrant under his Hand and Seal, cause such putative Father to be brought before any Two Justices; and in case such putative Father neglect or refuse to make Payment of the Sums due from him under such Order, or since any Commitment for Disobedience to such Order as herein-after provided, together with the Costs attending such Warrant, Apprehension, and bringing up of such putative Father, such

such Two Justices may, by Warrant under their Hands and Seals, direct the Sum so appearing to be due, together with such Costs, to be recovered by Distress and Sale of the Goods and Chattels of such putative Father, and may order such putative Father to be detained and kept in safe Custody until Return can be conveniently made to such Warrant of Distress, unless he give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of such Justices, for his Appearance before Two Justices on the Day which may be appointed for the Return of such Warrant of Distress, such Day not being more than *Seven* Days from the Time of taking any such Security; but if upon the Return of such Warrant, or if by the Admission of such putative Father, it appear that no sufficient Distress can be had, then any such Two Justices may, if they see fit, by Warrant under their Hands and Seals, cause such putative Father to be committed to the Common Gaol or House of Correction of the County, City, Borough, or Place where they have Jurisdiction, there to remain without Bail or Mainprise for any Term not exceeding *Three* Calendar Months, unless such Sum and Costs, and all reasonable Charges attending the said Distress, together with the Costs and Charges attending the Commitment and conveying to Gaol or to the House of Correction, and of the Persons employed to convey him thither, be sooner paid and satisfied: Provided always, that if the Woman have allowed the weekly Payment to be in arrear for more than *Thirteen* successive Weeks, without Application to a Justice, the Man shall not be called upon to pay more than the Amount due for *Thirteen* Weeks in discharge of the whole Debt, and no Warrant of Distress shall be issued for more than the Amount of Arrears for *Thirteen* Weeks Payment in discharge of the whole Arrears or Debt.

Proviso.

4. The Justices in Petty Sessions as aforesaid may adjourn the Hearing of the Case as often as to them may seem fit, but no such Order shall be made unless applied for at such Petty Sessions within the Space of *Forty* Days from the Service of the Summons after the Birth of the bastard Child on the Person alleged to be the Father of such bastard Child; and if within *Twenty-four* Hours after the Adjudication and making of any Order on the putative Father as aforesaid such putative Father give Notice of Appeal to the Mother of the bastard Child, and also within *Seven* Days give sufficient Security, by Recognizance or otherwise, for the Payment of Costs, to the Satisfaction of some One Justice of the Peace, it shall be lawful for such putative Father to appeal to the General Quarter Sessions of the Peace to be holden after the Period of *Fourteen* Days next after the making of the said Order for the County, City, Borough, or Place for which such Petty Sessions may have been held; and the Justices in such Quarter Sessions assembled, or the Recorder, as the

Applications to be made within Forty Days.

Appeal to Quarter Sessions for the putative Father.

Case may be, shall thereupon hear and determine such Appeal, and shall order such Costs to be paid by either Party as to them or him may seem fit.

Money under the Order to be paid to the Mother or to a Person appointed by the Justices.

**5.** All Money payable under any Order as aforesaid shall be due and payable to the Mother of the bastard Child in respect of such Time and so long as she lives and is of sound Mind, and is not in any Gaol or Prison, or under Sentence of Transportation; and after the Death of the Mother of such bastard Child, or whilst such Mother is of unsound Mind, or confined in any Gaol or Prison, or under Sentence of Transportation, any Two Justices may, if they see fit, by Order under their Hands and Seals from Time to Time appoint some Person who, with his own Consent, shall have the Custody of such bastard Child, so long as such bastard Child is not chargeable to any Electoral Division or Union, and any Two such Justices may revoke the Appointment of such Person, and may appoint another Person in his Stead; and every Person so appointed to have the Custody of a bastard Child shall, so long as such Child is not chargeable to any Electoral Division or Union, be empowered to make Application for the recovering of all Payments becoming due under the Order of the Court of Petty Sessions as aforesaid in the same Manner as the Mother of such bastard Child might have done; and the Clerk to the Justices making any Order on the putative Father of a bastard Child, or appointing any Person to have the Custody of such Child, as herein-before provided, shall as soon as may be send by Post or otherwise a Duplicate of such Order or Appointment, signed by such Clerk, to the Clerk to the Guardians of the Union in which the Mother of such bastard Child resided at the Time of making such Order or Appointment: Provided always, that no Order for the Maintenance or Support of any such bastard Child made in pursuance of this Act shall, except for the Purpose of recovering Money previously due under such Order, be of any Force or Validity after the Child in respect of whom it was made has attained the Age of *Thirteen* Years, or after the Marriage of the Mother of such Child, or after the Death of such Child.

Time of Cessation of Order.

Officers of Unions not to receive Money under the Order, or to interfere in any respect.

**6.** It shall not be lawful for any Justice of the Peace to appoint any Officer of any Union to have the Custody of any bastard Child as herein-before provided, or for any Officer of any Union, Clerk of Justices, or Constable, to receive any Money in respect of any bastard Child under an Order of Petty Sessions as aforesaid, or as such Officer to conduct any Application to make or enforce such Order, or in any way to interfere as such Officer in causing such Application to be made, or in procuring Evidence in support of such Application, under a Penalty of *Forty Shillings*, to be levied on Conviction before any Two

Two Justices as Penalties and Forfeitures under the Acts in force for the Relief of the destitute Poor in Ireland: Provided always, that after the Death of such Mother, or if such Mother be incapacitated as aforesaid, so often as any bastard Child for whose Maintenance such Order of Petty Sessions has been made becomes chargeable to any Electoral Division or Union by the Neglect of the putative Father to make the Payments due under the Orders of Justices, then and in such Case it shall be lawful for any Board of Guardians of an Union to make such Application for the Enforcement of the Order as might have been made by the Mother of such bastard Child if alive; but all Payments for the Maintenance of such Child made in pursuance of such Application shall be made to some Person to be from Time to Time appointed by the Justices as herein-before provided, and on condition that such bastard Child shall cease to be chargeable to such Union.

Proceedings against putative Father in case of Death or Incapacity of Mother.

7. Every Person having the Custody of any bastard Child under any Order of Justices, as herein-before provided, who may misapply Monies paid by the putative Father for the Support of such Child, or may withhold proper Nourishment from such Child, or otherwise abuse and maltreat such Child, shall, on Conviction before any Two Justices, forfeit and pay a Sum not exceeding *Ten Pounds*.

Misapplying Monies, or maltreating a bastard Child.

# Bastardy (Ireland).

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# BILL

To render putative Fathers of bastard Children in Ireland liable for their Maintenance.

(*Prepared and brought in by Sir Robert Peel and Mr. Clive.*)

*Ordered, by* The House of Commons, *to be Printed*, 18 *March* 1862.

[Bill 49.]

*Under* 1 *oz.*

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# BILL

TO

## Amend the Law regarding the Jurisdiction and Authority exercised by the Benchers of the Four Inns of Court in England in certain Cases.

Preamble.

WHEREAS it is desirable to amend the Law regarding the Jurisdiction and Authority exercised by the Benchers of the Four Inns of Court in England regarding the Discipline of the Bar: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Benchers of each Inn to elect Three Benchers to form Council of Discipline.

1. That the Benchers of each of the said Four Inns of Court, that is to say, Lincoln's Inn, the Middle Temple, the Inner Temple, and Gray's Inn respectively, shall at the First Council, Parliament, or Pension held in Michaelmas Term in the present Year elect from among themselves *Three* Masters of the Bench, and the *Twelve* Masters of the Bench so elected shall constitute and be called the Council of Discipline and Appeal of the Four Inns of Court, and all Vacancies occurring in such Council shall from Time to Time be filled up by the Election of a Bencher by and from among

run in Vacation.

notwithstanding the Provisions of the Forty-third Section of "The Common Law Procedure (Ireland) Act, 1853."

The Days from 1st August to 20th October to be reckoned Days within which Summons, &c. should be filed.

**2.** In all such Actions, the Days from and including the First Day of August to the Twentieth Day of October inclusive in each Year, shall be reckoned Days within which the Summons and Plaint and Defence should be filed, and on such Days such Summons and Plaint, or Defence, shall be filed and received, notwithstanding the Provisions of the Forty-third Section of "The Common Law Procedure (Ireland) Act, 1853."

Incorporation of Acts.

**3.** This Act and the Summary Procedure on Bills of Exchange (Ireland) Act, 1862, shall be incorporated and construed together as One Act.

Short Title.

**4.** This Act may be cited for all Purposes as "The Summary Procedure on Bills of Exchange (Ireland) Act, 1862."

# Births and Deaths Registration (Ireland) Bill.

## ARRANGEMENT OF CLAUSES.


Preamble.
Short Title; Sect. 1.
Act to extend to Ireland only, except, &c.; 2.
Interpretation Clause; 3.

*Registrar General.*

General Register Office to be provided; Registrar General to be appointed; 4.
Seal to be provided, and certified Copies given at General Register Office to be sealed therewith; 5.
Registrar General may alter Schedules; 6.
Officers, Clerks, and Servants to be appointed; 7.
Salary of Registrar General to be increased, and to include Remuneration for all public Duties performed by him; 8.
Assistant Registrar General may be appointed; 9.
Regulations to be made for Management of Office and Duties of Officers; 10.
Fees received by Registrar General to be paid into Bank of Ireland to Credit of Exchequer; 11.
Appointments to be exempt from Stamp Duties; 12.
Abstract of Registers to be laid annually before Parliament; 13.
Indexes to be kept at General Register Office; Searches allowed, and certified Copies given; Fees; 14.

*Supply of Books and Boxes.*

Iron Boxes for Register Books to be provided by Registrar General; 15.
Register Books to be provided; 16.

*Districts and Registrars.*

Power to Lord Lieutenant to alter existing Districts, and form new Districts and Sub-Districts, and to appoint Superintendent Registrars and Registrars thereto; 17.
Deputy Registrars to be appointed; 18.
Books, &c. to be transferred on Death or Removal of Superintendent Registrar or Registrar; 19.

Superintendent Registrars to reside in their Districts; 20.
Indexes to be made at every Superintendent Registrar's Office, and Persons allowed to search them; 21.
Exemption of Superintendent Registrar and Registrar from serving on Juries, &c.; 22.

*Register Offices.*

Register Office to be provided in each Registration District; 23.

*Registration of Births and Deaths.*

Registrar to learn and register Births and Deaths; 24.
Parents and others required to give Notice of Births within Twenty-one Days, and Information within Three Months, 25.
Register of Children born at Sea; 26.
As to Registry after the Expiration of Six Months from Birth; 27.
Name given in Baptism may be registered within Six Months after Registration of Birth; 28.
Persons present at Death and others required to give Notice within *Eight* Days, and Information within *Fourteen* Days; 29.
Registrar to make Entry of Finding of Jury upon Coroner's Inquest; 30.
Medical Attendant to transmit Certificate of Death to Registrar, 31.
Registrar to give give Certificate of Death; 32.
Registers of Baptisms and Burials may be kept as heretofore; 33.
Register of Persons dying at Sea; 34.
Notice to be given of the finding of any new-born Child or dead Body; 35.
Register of Birth and Death of Irish Subjects occurring in Foreign Countries; 36.
Register to be signed by the Informant; 37.
Correction of erroneous Entries; 38.

*Returns.*

Certified Copies of Registers of Births and Deaths to be sent quarterly, and the Register Books, when filled, to the Superintendent Registrar; 39.
Superintendent Registrars to send certified Copies of Registers of Births and Deaths; 40.

*Fees.*

Superintendent Registrars to be paid for the certified Copies sent to General Register Office; 41.
Registrars to make out Accounts quarterly; 42.

Payment to Registrars; 43.
Grand Jury to present Sums paid to Registrars on Application of Registrar General; 44.

*General Provisions.*

Penalty for wilfully giving false Information; 45.
Penalty for not duly registering Births or Deaths, or for losing or injuring Registers; 46.
Penalty for neglecting to send Register Books to Superintendent Registrar; 47.
Penalty for destroying or falsifying Register Books; 48.
Recovery of Penalties; 49.

FORMS.

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# BILL

FOR

## The Registration of Births and Deaths in Ireland.

WHEREAS it is expedient that a complete System of Registration of Births and Deaths should be established in Ireland, as in other Parts of the United Kingdom: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** This Act may be cited for all Purposes as "The Registration of Births and Deaths (Ireland) Act." Short Title.

**2.** This Act, except as herein otherwise provided, shall extend to Ireland only. Act to extend to Ireland only, except, &c.

**3.** The following Words and Expressions shall, in construing this Act, be taken and understood to have the Meanings hereby assigned to them, unless there be something in the Context repugnant to such Construction; (that is to say,) Interpretation Clause.

"Lord Lieutenant" shall mean and include the Lord Lieutenant or other Chief Governor or Governors of Ireland for the Time being:

"Lord Lieutenant in Council" shall mean the Lord Lieutenant by and with the Advice of Her Majesty's Privy Council in Ireland:

"Registrar General" shall mean the Registrar General of Births and Deaths in Ireland for the Time being appointed or to be appointed under this Act, and in case of the Absence of the Registrar General shall also mean and include the Assistant Registrar General for the Time being appointed or to be appointed under this Act:

"Occupier" shall, for the Purposes of the Notification of Births and Deaths for Registration under this Act, include the Governor, Keeper, Master, Superintendent, or other chief Resident Officer of every Gaol, Prison, or House of Correction, and of every School, Reformatory, Workhouse, Hospital, Lunatic Asylum, or other Public or Charitable Institution, and where any House is let in separate Apartments or Lodgings, shall include the Person by whom such Lodgings or separate Apartments are immediately held, and any Agent or Servant of such Person residing in such House:

"General Search" shall mean a Search during any Number of successive Days, not exceeding *Six*, without stating the Object of Search:

"Particular Search" shall mean a Search over any Period not exceeding *Five* Years for any given Register of Birth or Death:

"Constable" shall mean and include the Head Constable, Constable, or Sub-Constable for the Time being in charge of a Constabulary Station:

"Constabulary Station" shall mean the Barrack at which any Party of the Constabulary is placed in accordance with the Regulations of the Inspector General:

"Assizes" shall include Presenting Term:

"County" shall include County of a City and County of a Town, and Riding of a County, and any Borough in which the Powers, Rights, and Duties of any Grand Jury in regard to presenting or levying Rates or Cesses for any Purpose have been by Law transferred to and are solely exercised by the Council of such Borough:

"County Cess or Rates" or "County Cess" shall, in relation to any such Borough as last mentioned, be construed to mean the Rates of such Borough:

"Grand Jury" shall include the Council of any such Borough:

"Secretary of the Grand Jury" shall include the Town Clerk of any such Borough:

"Treasurer" shall include Finance Committee, and the Secretary of the Grand Jury for the County of Dublin.

*Registrar*

*Registrar General.*

General Register Office to be provided. Registrar General to be appointed.

**4.** The Lord Lieutenant shall cause a proper Office to be provided in the City of Dublin, to be called the "General Register Office," and shall from Time to Time appoint for the said Office a fit and competent Person to be the Registrar General of Births and Deaths in Ireland, who shall hold Office during the Pleasure of the Lord Lieutenant, and be removable by him: Provided always, that the Person who shall at the Date of the passing of this Act hold the Office of Registrar General of Marriages under an Act passed in the Seventh and Eighth Years of Her Majesty, Chapter Eighty-one, shall be appointed to the Office of Registrar General under this Act.

Seal to be provided, and certified Copies given at General Register Office to be sealed therewith.

**5.** The Registrar General shall cause to be made a Seal of the said General Register Office, and shall cause to be sealed or stamped therewith all certified Copies of Entries given in the said Office; and all certified Copies of Entries purporting to be sealed or stamped with the Seal of the said General Register Office (which Seal it shall not be necessary to prove), shall be admissible as Evidence in all Parts of Her Majesty's Dominions, of the Birth or Death to which the same relates, without any further or other Proof of such Entry, and no certified Copy purporting to be given in the said Office shall be of any Force or Effect which is not sealed or stamped as aforesaid.

Registrar General may alter Schedules.

**6.** It shall be lawful for the Registrar General, with the Consent of the Lord Lieutenant in Council, to alter the Schedules annexed to this Act, regard being always had to the Objects and Purposes of this Act, and to rendering the same more effectual; and such Alterations of Schedules shall be published in the *Dublin Gazette*, and shall, within *Fourteen* Days after the same shall have been issued, be laid before both Houses of Parliament, or, if Parliament shall not be then sitting, within *Fourteen* Days after the Commencement of the then next Session.

Officers, Clerks, and Servants to be appointed.

**7.** It shall be lawful for the Lord Lieutenant, or the Registrar General subject to the Approval of the Lord Lieutenant, to appoint such and so many Officers, Clerks, and Servants as may from Time to Time be necessary for carrying on the Business of the General Register Office, and at Pleasure to remove any of them: Provided always, that all Officers, Clerks, and Servants who may be employed in the Business of the General Register Office at the Time of the passing of this Act shall, if the Lord Lieutenant or Registrar General, subject to the Approval of the Lord Lieutenant, think fit, be employed in the Business of the General Register Office under this Act as if their

original Appointment under the said Act of the Seventh and Eighth Years of Her Majesty had been made under the Authority of this Act.

Salary of Registrar General to be increased, and to include Remuneration for all public Duties performed by him.

**8.** Whereas the Registrar General of Marriages appointed under the said Act has been heretofore required by the Lord Lieutenant to superintend the taking of the Census in Ireland, and also the annual Collection of Agricultural Statistics, and to perform other public Duties from Time to Time, in addition to those he was required to perform under the said Act, for which Duties special Remuneration has been heretofore awarded to him, in addition to the Salary received by him under the said Act; and it is expedient that in respect of such Duties, and of the additional Duties he may be required to perform under this Act, or otherwise, he should be paid by Salary: Be it enacted, That so much of the said Act of the Seventh and Eighth Years of Her Majesty, Chapter Eighty-one, as enacts that the Salary of the Registrar General shall not at any Time exceed the Sum of Eight hundred Pounds yearly shall be repealed; and it shall be lawful for the Commissioners of Her Majesty's Treasury to appoint from Time to Time the Salary of the said Registrar General, so that the same shall not at any Time exceed the Sum of *One thousand Pounds*, and the Salaries of the Officers, Clerks, and Servants shall be in fit Proportion according to the Duties which they may be respectively required to perform; and all such Salaries and all other Expenses of carrying this Act into execution not herein otherwise provided for shall be paid out of any Monies which may from Time to Time be provided by Parliament for that Purpose; and the Salary so to be appointed for the said Registrar General shall be deemed to include the Remuneration for all Duties which the said Registrar General is now or may hereafter be appointed or required to perform.

Assistant Registrar General may be appointed.

**9.** The Registrar General shall have Power, subject to the Approval of the Lord Lieutenant, to appoint by Writing under his Hand a fit Person to act as his Assistant in case of the Illness or Absence of the Registrar General; and every such Assistant, while so acting, shall have all the Powers and Duties, and be subject to all the Provisions and Penalties declared by the said Act and this Act, except that such Assistant shall not have Power to make or declare any General Rule, or to rescind or alter any Order, Regulation, or Approval signified by the Registrar General or made by the Registrar General in Writing under his Hand, or to dismiss any Person from any Office holden during the Pleasure of the Registrar General.

**10.** The

Regulations to be made for Management of Office and Duties of Officers.

**10.** The Lord Lieutenant, or the Registrar General with his Approbation, shall and may from Time to Time make Regulations for the Management of the General Register Office, and for the Discharge of the Duties of the Registrar General, Officers, Clerks, and Servants of the said Office, and of the Superintendent Registrars and Registrars, and their Deputies herein-after mentioned, so that such Regulations be not contrary to the Provisions of this Act; and the Regulations so made and approved shall be binding on such Registrar General, Officers, Clerks, and Servants of the said Office, and on the Superintendent Registrars and Registrars, and their Deputies respectively.

Fees received by Registrar General to be paid into Bank of Ireland to Credit of Exchequer.

**11.** All Fees received by or on account of the Registrar General under the Provisions of this Act shall be accounted for and paid by the Registrar General, at such Times as the said Commissioners of Her Majesty's Treasury shall from Time to Time direct, into the Bank of Ireland, to the Credit of Her Majesty's Exchequer.

Appointments to be exempt from Stamp Duties.

**12** The Appointments of Officers, Clerks, and Servants, and of Superintendent Registrars and Deputy Superintendent Registrars, and of Registrars and Deputy Registrars, under this Act, and the Duplicate and certified Copies of Registers, as herein provided, shall be exempt from Stamp Duties, save and except as herein-after provided.

Abstract of Registers to be laid annually before Parliament.

**13.** The Registrar General shall once in every Year transmit to the Lord Lieutenant a General Abstract of the Numbers of Births and Deaths registered during the foregoing Year, in such Form and at such Date as the Lord Lieutenant shall from Time to Time prescribe, and every such annual General Abstract shall be laid before Parliament within *One Month* after Receipt thereof, or if Parliament shall not be then sitting, within *One Month* after the Commencement of the next Session.

Indexes to be kept at General Register Office; Searches allowed and certified Copies given. Fees.

**14.** The Registrar General shall cause Indexes of all the Registers herein-after mentioned to be made and kept in the General Register Office; and every Person shall be entitled to search the said Indexes between the Hours of *Ten* in the Morning and *Four* in the Afternoon of every Day, except Sundays, Christmas Day, and Good Friday, and to have a certified Copy of any Entry in the said Registers; and for every general Search of the said Indexes the Sum of *Twenty Shillings*, and for every particular Search the Sum of *One Shilling*, and for every such certified Copy the Sum of *Two Shillings* shall be paid to the Registrar General or such other Officer as shall be appointed to receive such Fees on his Account, in addition to the Stamp Duty of One Penny imposed by an Act passed in the Twenty-third and Twenty-fourth Years of Her Majesty, Chapter Fifteen; provided that it shall be competent to the Registrar General to permit gratis Searches to be made

by or on behalf of, and Extracts to be given gratis to, Persons of whose Inability to pay he shall be satisfied.

*Supply of Books and Boxes.*

Iron Boxes for Register Books to be provided by Registrar General.

**15.** The Registrar General shall furnish for the Use of the Registrars appointed under this Act a sufficient Number of strong Iron Boxes to hold the Register Books to be kept by each Registrar; and every such Box shall be furnished with a Lock and Two Keys and no more, and One of such Keys shall be kept by the Registrar and the other by the Superintendent Registrar appointed under this Act; and the Register Books of each District while in Custody of the Registrar and not in Use shall be always kept in the Register Box, which shall always be left locked.

Register Books to be provided.

**16.** Upon the Application of the Registrar General, there shall be furnished to him from Time to Time, from Her Majesty's Stationery Office, all such Stationery, Books, Indexes, Certificates, Schedules, Notices, and Forms as shall be necessary in the Execution of this Act, as the said Registrar General shall require and direct; and the Register Books shall be of durable Materials, and in them shall be printed on each Side of every Leaf the Heads of Information herein required to be known and registered of Births and Deaths respectively; and every Page of each of such Books shall be numbered progressively from the Beginning to the End of the Book, beginning with Number One, and every Place of Entry shall be also numbered progressively from the Beginning to the End of the Book, beginning with Number One, and every Entry shall be divided from the following Entry by a printed Line; and the Registrar General shall furnish for the Use of the Registrars a sufficient Number of Register Books of Births and Register Books of Deaths as may from Time to Time be required for the Purposes of this Act.

*Districts and Registrars.*

Power to Lord Lieutenant to alter existing Districts, and form new Districts and Sub-Districts, and to appoint Superintendent Registrars and Registrars thereto.

**17.** It shall be lawful for the Lord Lieutenant in Council, at any Time after the *passing of this Act*, to divide Ireland into Registration Districts and Sub-Districts for the Purposes of this Act, and on the Representation of the Registrar General to make such Alterations as may from Time to Time appear necessary in such Districts and Sub-Districts, and to abolish any such Districts or Sub-Districts, and to form new Districts or Sub-Districts, and from Time to Time to appoint any County or Sub-Inspector of Constabulary or Superintendent of Dublin Metropolitan Police, if in the Police District of the City of Dublin, or other fit Person to be the Superintendent Registrar of each of such Districts; and it shall be lawful for the Lord Lieutenant to appoint any Constable in charge of a Constabulary Station within such

such Sub-District, or other fit Person, to be the Registrar for such Sub-District; provided that in the Police District of the City of Dublin a Constable of the Metropolitan Police or other fit Person may be appointed Registrar of Births and Deaths in any Sub-District of the said Police District; and every Superintendent Registrar and Registrar shall hold his Office during the Pleasure of the Lord Lieutenant.

Deputy Registrars to be appointed.

**18.** Every Superintendent Registrar and Registrar shall, subject to the Approval of the Registrar General, appoint by Writing under his Hand a fit Person to act as his Deputy in case of the Illness or unavoidable Absence of such Superintendent Registrar or Registrar; and every such Deputy while so acting shall have the Powers and perform the Duties and be subject to the Penalties herein declared concerning Superintendent Registrars and Registrars respectively, and in case of the Death or Resignation of the Superintendent Registrar or Registrar, as the Case may be, shall act as Superintendent Registrar or Registrar until another Superintendent Registrar or Registrar is appointed; and every Superintendent Registrar or Registrar shall be civilly responsible for the Acts and Omissions of his Deputy.

Books, &c. to be transferred on Death or Removal of Superintendent Registrar or Registrar.

**19.** In every Case in which any Superintendent Registrar or Registrar shall die, or be removed from or otherwise cease to hold his Office, all Register Boxes, Keys, Books, Documents, and Papers in his Possession as such Superintendent Registrar or Registrar, or which shall come into the Possession of his Representatives, shall be given up as soon as conveniently may be to his Successor in Office, and if any Person shall refuse to give up any such Box, Key, Book, Document, or Paper in such Case as aforesaid, it shall be lawful for any Justice of the Peace for the County or other Jurisdiction where such Person shall be or reside, upon Application made for that Purpose, to issue a Warrant under his Hand and Seal for bringing such Person before any Two Justices of the Peace for the said County or other Jurisdiction; and upon such Person appearing or not being found it shall be lawful for such Justices to hear and determine the Matter in a summary Way; and if it shall appear to the Justices that any such Box, Key, Book, Document, or Paper is in the Custody or Power of any such Person, and that he has refused or wilfully neglected to deliver the same to the Person in whose Custody the same ought to be, the said Justices shall commit such Offender to the Common Gaol or House of Correction for the said County or Jurisdiction, there to remain without Bail until he shall have delivered up the same, or until Satisfaction shall have been given in respect thereof, and the said Justices may grant a Warrant to search for any such Box, Key, Book, Document, or Paper, as in the Case of stolen Goods, in any Dwelling House or other Premises in which any credible Witness

shall prove upon Oath before them that there is reasonable Cause to suspect the same to be; and the same when found shall be delivered to the Person in whose Custody it ought to be.

Superintendent Registrars to reside in their Districts.

**20.** Every Superintendent Registrar shall reside within the District for which he is appointed, and shall cause his Name, with the Addition of Superintendent Registrar for the District for which he is so appointed, to be affixed on some conspicuous Place on or near the outer Door of the Register Office, and shall cause to be published in his District a List of the Names and Localities of the several Constabulary Stations or other Places within his District at which Information regarding Births and Deaths is to be given in the Manner herein-after mentioned, and such List shall be furnished to the Superintendent Registrar from Time to Time by the Registrar General.

Indexes to be made at every Superintendent Registrar's Office, and Persons allowed to search them.

**21.** Every Superintendent Registrar shall cause Indexes of the Register Books in his Office to be made and kept with the other Records of his Office: Every Person shall be entitled at all reasonable Hours to search the said Indexes, and to have a certified Copy of any Entry or Entries in the said Register Books, under the Hand of the Superintendent Registrar, on Payment of the Fees herein-after mentioned; that is to say, for every general Search the Sum of *Two Shillings*, and for every particular Search the Sum of *One Shilling*, and for every certified Copy the Sum of *Two Shillings*, in addition to the Stamp Duty of One Penny imposed by an Act passed in the Twenty-third and Twenty-fourth Years of Her Majesty, Chapter Fifteen; and any Registrar who shall neglect to make and give such Copy, after being required to do so, shall be liable to a Penalty not exceeding *Ten Pounds*.

Exemption of Superintendent Registrar and Registrar from serving on Juries, &c.

**22.** Every Superintendent Registrar and Registrar appointed under the Provisions of this Act shall be freed and exempted from serving on any Jury or Inquest, or in any Parochial or Corporate Office whatever.

*Register Offices.*

Register Office to be provided in each Registration District.

**23.** The Registrar General shall, subject to the Approval of the Lord Lieutenant, provide and uphold, out of the Monies coming to his Hands under the Provisions of the Forty-fourth Section of this Act, a suitable Register Office in each Registration District, for preserving the Registers to be deposited therein; provided always, that the Expense of such Register Office shall in no Case exceed the Sum of *Two hundred Pounds*; and the Superintendent Registrar shall have the Care of such Office, and of the Registers deposited therein; and it shall be lawful for the Commissioners of Her Majesty's Treasury,

Treasury, upon the Application of the Registrar General, to advance from Time to Time such Sums as may be necessary for providing such Offices; and such Sums so advanced shall from Time to Time be repaid by the Registrar General out of the Monies coming to his Hands as herein-before mentioned, in such Manner as the Commissioners of Her Majesty's Treasury shall direct; and until such Register Office shall be provided in such Registration District the Superintendent Registrar shall appropriate some fit Room or Rooms, to be approved by the Registrar General, as a temporary Office for such Superintendent Registrar's District.

*Registration of Births and Deaths.*

Registrar to learn and register Births and Deaths.

**24.** Every Registrar shall, subject to the Regulations to be made under this Act, be and he is hereby authorized and required to inform himself carefully of every Birth and Death which shall happen within his District after the said *Thirty-first Day of December One thousand eight hundred and sixty-two*, and to learn and register as soon after the Event as conveniently may be done, and without Fee or Reward, save as herein provided, in One of the said Register Books, the Particulars required to be registered, according to the Forms (A.) and (B.) hereunto annexed respectively touching every such Birth or every such Death, as the Case may be, every such Entry being made in order from the Beginning to the End of the Book as aforesaid.

Parents and others required to give Notice of Births within Twenty-one Days and Information within Three Months.

**25.** The Father of any Child born in Ireland after the said *Thirty-first Day of December One thousand eight hundred and sixty-two*, or, in case of the Death or Inability of the Father, the Mother of such Child, and in case of the Death or Inability of the Parents, the Occupier of the House or Tenement in which to his or her Knowledge such Child was born, or the Nurse or any Person present at the Birth of such Child, shall, at any Time within *Twenty-one* Days next after the Day of such Birth, and under a Penalty not exceeding *Twenty Shillings* in case of Failure, to be paid in full by each Person making default, give Notice thereof to the Registrar of the Sub-District within which such Child shall have been born; and in case of Failure or Neglect so to give such Notice, such Parents and Persons above specified shall, upon being required personally or by written Requisition of the Registrar, within *Three* Months after the Date of such Birth, and under a Penalty not exceeding *Forty Shillings* in case of Failure, attend personally and give Information to the Registrar of the Sub-District in which such Birth occurred, according to the best of his or her Knowledge and Belief, of the several Particulars by the said Schedule (A.) required to be regis-

tered touching the Birth of such Child, and shall sign the Register in the Presence of the Registrar.

Register of Children born at Sea.

**26.** If any Child of an Irish Parent shall be born at Sea after the *Thirty-first Day of December One thousand eight hundred and sixty-two*, on board of a British Vessel, the Captain or Commanding Officer of such Vessel shall forthwith make a Minute in the Log Book or otherwise of the several Particulars hereby required to be registered touching the Birth of such Child, so far as the same may be known, and of the Name of the Vessel in which the Birth took place, and shall, on the Arrival of such Vessel in any Port of the United Kingdom, or by any other earlier Opportunity, send a certified Copy of such Minute through the Post Office to the Registrar General in Dublin, who shall file the same, and shall cause a true and correct Copy thereof, verified by his own Signature, to be entered in a Book to be kept for that Purpose in the General Register Office, to be called the "Marine Register Book of Births," and the Registrar General shall keep such Book with the other Registers according to the Provisions of this Act.

As to Registry after the Expiration of Six Months from Birth.

**27.** After the Expiration of *Six* Months following the Birth of any Child it shall not be lawful for any Registrar to register such Birth, save as herein-after provided; that is to say, in case the Birth of any Child shall not have been registered according to the Provisions herein-before contained, it shall be lawful for any Person present at the Birth of such Child, or for the Father or Mother or Guardian thereof, at any Time within *Six* Calendar Months next after the Birth of such Child, to make before the Superintendent Registrar a Declaration of the Particulars required to be known touching the Birth of such Child, according to the best of his or her Knowledge and Belief, which Declaration the said Superintendent Registrar is hereby authorized to take, and it shall thereupon be lawful for the said Registrar, then and there in the Presence of the Superintendent Registrar, to register the Birth of such Child, according to the Information of the Person making the said Declaration; and the Superintendent Registrar before whom the said Declaration is made shall sign the Entry of the Birth as well as the Registrar; and for every such Registry as last aforesaid the Superintendent Registrar shall be entitled to receive a Fee of *Two Shillings and Sixpence* from the Person requiring the same to be registered, over and above the Fee herein-after authorized to be taken in respect of every Birth registered by him, unless the Delay shall have been occasioned by his Default; and no Register of Birth shall be given in Evidence to prove the Birth of any Child whenever it shall appear that *Six* Calendar Months have intervened between the Day of the Birth and the

the Day of the Registration of the Birth of such Child (except in the Case of a Child born at Sea), unless the Entry shall be signed by the Superintendent Registrar; and every Person who shall knowingly register or cause to be registered the Birth of any Child, otherwise than is herein-before last mentioned, after the Expiration of *Six* Calendar Months following the Day of the Birth of such Child, shall forfeit and pay for every such Offence the Sum of *Five Pounds*.

Name given in Baptism may be registered within Six Months after Registration of Birth.

**28.** If any Child born in Ireland whose Birth shall have been registered as aforesaid shall within *Six* Calendar Months next after the Registration of such Birth have any Name given to it in Baptism, the Parent or Guardian of such Child, or other Person procuring such Name to be given, may, within such *Six* Calendar Months, procure and deliver to the Registrar or Superintendent Registrar of the Sub-District in whose Custody the Register of the Birth of the Child may then happen to be, a Certificate, according to the Form (C.) to this Act annexed, or to the like Effect, signed by the Clergyman, Minister, or officiating Person who shall have performed the Rite of Baptism, which Certificate he is hereby required to deliver whenever, within such *Six* Calendar Months, the same shall be demanded, on Payment of the Fee of *One Shilling*, which he shall be entitled to receive for the same; and the said Registrar or Superintendent Registrar, upon Receipt of such Certificate, and on Payment of the Fee of *One Shilling*, which he shall be entitled to receive for the same, shall, without any Erasure of the original Entry, forthwith register therein that the Child was baptized by such Name; and the said Registrar or Superintendent Registrar shall thereupon certify upon the said Certificate the additional Entry so made, and shall forthwith send the said Certificate through the Post Office to the Registrar General; and whenever a Baptismal Name shall have been added to an Entry of Birth subsequently to the Transmission to the General Register Office of the Return of certified Copies containing such Entry, a duly certified Copy of such Entry containing the Baptismal Name shall in like Manner be sent to the Registrar General.

Persons present at Death and others required to give Notice within *Eight* Days, and Information within *Fourteen* Days.

**29.** Some Person present at the Death or in attendance during the last Illness of any Person dying in Ireland after the said *Thirty-first Day of December One thousand eight hundred and sixty-two*, or the Occupier of the House or Tenement in which such Death took place, or if the Occupier be the Person who shall have died, then some One or more of the Persons residing in the House in which such Death took place, shall, within *Eight* Days next after the Day of such Death, and under a Penalty not exceeding *Twenty Shillings* in case of Failure, to be paid by each Person making default, give

give Notice of such Death to the Registrar of the Sub-District in which such Death occurred; and in the event of Failure or Neglect so to give such Notice, such Persons as aforesaid, or if such Death shall not have taken place within a House, then any Person present at such Death, or having a Knowledge of the Circumstances attending the same, shall, upon being required personally or by written Requisition, within *Fourteen* Days after the Date of such Death, and under a Penalty not exceeding *Forty Shillings* in case of Failure, to be paid by each Person making default, attend personally and give Information to the Registrar of the Sub-District in which such Death occurred, according to the best of his or her Knowledge and Belief, of the several Particulars required by the said Form (B.) to be registered touching such Death, and shall sign the Registry in the Presence of the Registrar.

Registrar to make Entry of Finding of Jury upon Coroner's Inquest.

**30.** In every Case in which an Inquest shall be held on any dead Body after the said *Thirty-first Day of December One thousand eight hundred and sixty-two* the Jury shall inquire of the Particulars herein required to be registered concerning the Death, and the Coroner shall communicate the Finding of the Jury in Writing under his Hand to the Registrar, and the Registrar shall make the Entry accordingly; provided that the Coroner shall not be required to sign the Register as Informant; and the Registrar shall state in the Entry of such Death that the Information was received from the Coroner, and shall transmit all such Informations to the Superintendent Registrar, who shall send the same to the Registrar General, who shall preserve such Informations with the Records of his Office.

Medical Attendant to transmit Certificate of Death to Registrar.

**31.** The Registrar shall furnish from Time to Time gratis, to every duly qualified Medical Practitioner within his District, the necessary Forms of Certificates of Death in the Form (D.) hereunto annexed, which Certificates the Registrar General shall cause to be printed and forwarded from Time to Time to every Registrar for that Purpose; and the Medical Practitioner who shall have been in attendance during the last Illness and until the Death of any Person dying after the said *Thirty-first Day of December One thousand eight hundred and sixty-two* shall, within *Seven* Days after the Death of such Person, transmit to the Registrar a Certificate of the Cause of Death in the Form mentioned, the Particulars of which shall be entered by the Registrar in the Register: In case such Certificate shall not be so transmitted, the Registrar shall transmit to such Medical Practitioner a Form of such Certificate, and by a written or printed Requisition under his Hand shall require such Medical Practitioner forthwith to return to the Registrar the Certificate duly filled up, and any Medical Practitioner failing after such Requisition to return such Certificate duly filled up,

up, within *Three* Days after the Receipt thereof by such Medical Practitioner, shall be liable to a Penalty not exceeding *Forty Shillings*.

Registrar to give Certificate of Death.

**32.** The Registrar, immediately after registering any Death, or as soon thereafter as he shall be required so to do, shall, without Fee or Reward, deliver to the Informant or other Person having Charge of the Funeral, a Certificate under his Hand according to the Form (E.) to this Act annexed, that such Death has been duly registered, and such Certificate shall be delivered by such Informant or other Person to the Minister or officiating Person who shall be required to bury, or to perform any Religious Service for the Burial of the dead Body; and if any dead Body shall be buried for which no such Certificate shall have been so delivered, the Person who shall bury or perform any Funeral or any Religious Service for the Burial, shall forthwith give Notice to the Registrar: Provided always, that the Coroner, upon holding any Inquest, may order the Body to be buried, if he shall think fit, before the Registry of Death, and shall in such Case give a Certificate of his Order in Writing under his Hand, according to the Form (F.) to this Act annexed, to such Person having Charge of the Funeral; and every Person who shall bury or perform any Religious Service for the Burial of any dead Body for which no Certificate shall have been duly made and delivered as aforesaid, either by the Registrar or Coroner, and who shall not within *Seven* Days give Notice thereof to the Registrar of the Sub-District in which the Death occurred, shall forfeit and pay any Sum not exceeding *Ten Pounds* for every such Offence.

Registers of Baptisms and Burials may be kept as heretofore.

**33.** Nothing herein contained shall affect the Registry of Baptisms or Burials, as now by Law established, or the Right of any officiating Minister to receive the Fees now usually paid for the Performance or Registration of any Baptism or Burial.

Register of Persons dying at Sea.

**34.** If any of Her Majesty's Irish Subjects shall die at Sea on board of a British Vessel after the said *Thirty-first Day of December One thousand eight hundred and sixty-two*, the Captain or Commanding Officer of the Vessel on board of which such Death shall have happened shall forthwith make a Minute in the Log Book or otherwise of the several Particulars herein required to be inserted in the Register touching such Death, so far as the same may be known, and of the Name of the Vessel wherein such Death took place, and shall, on the Arrival of such Vessel in any Port of the United Kingdom, or by any other earlier Opportunity, send a certified Copy of such Minute through the Post Office to the Registrar General in Dublin, who shall file the same, and shall cause a true and correct Copy thereof

to be entered in a Book to be kept for that Purpose in the General Register Office, to be called the "Marine Register Books of Deaths," and the Registrar General shall keep such Book with the other Registers according to the Provisions of this Act.

Notice to be given of the finding of any new-born Child or dead Body.

**35.** In case any Person shall, after the *Thirty-first Day of December One thousand eight hundred and sixty-two*, find exposed any new-born Child or any dead Body, such Person shall forthwith give Notice of the finding of the same, and of the Place where the same was found, to the Registrar of the Sub-District in which the same shall have been found, and any such Person failing to give the Notice thereby required shall be liable to a Penalty not exceeding *Twenty Shillings;* and the Registrar shall register, after proper Inquiry, all the several Particulars required to be known and registered touching the said Birth or Death, or so much and so many of the Particulars as shall have been ascertained.

Register of Birth and Death of Irish Subjects occurring in Foreign Countries.

**36.** The Birth of any Child of Irish Parents, or the Death of any Person born in Ireland which shall take place in any Foreign Country, if intimated to the Registrar General within *Twelve* Months after the Date thereof, in accordance, as near as may be, with the Forms prescribed in Forms (A.) and (B.) to this Act annexed, and duly certified by the British Consul of the Country or District within which such Birth or Death shall have taken place, shall be entered in a Book to be kept for the Purpose in the General Register Office, to be called "The Foreign Register"; and all such Intimations shall be filed and the relative Entries verified by the Signature of the Registrar General.

Register to be signed by the Informant.

**37.** Every Person by whom the Information contained in any Register of Birth or Death under this Act shall have been given, except in the Case of such Information being given by the Coroner, or by the Captain or Commanding Officer of a Vessel at Sea, as herein-before provided, shall sign his Name, Qualification, and Place of Abode in the Register; and, except as aforesaid, no Register of Birth or Death according to this Act shall be given in Evidence which shall not be signed by some Person professing to be the Informant, and to be such Party as is by this Act required to give such Information to the Registrar.

Correction of erroneous Entries.

**38.** If any Error shall be discovered to have been committed in the Entry of any Birth or Death in any Register, the Person discovering the same shall forthwith give Information thereof to the Justices presiding at the Petty Sessions of the District within which such Birth or Death shall have occurred; and it shall be lawful for the Justices, and they are hereby authorized and required thereupon, or upon otherwise coming

coming to the Knowledge of such erroneous Entry, to summons before them the Person who made, and any Person concerned in making such erroneous Entry, or having any Knowledge regarding the same, and also any Person interested in the Effect of such erroneous Entry, and to examine all such Persons on Oath; and if the Justices shall be satisfied that any Error has been committed in any such Entry, they shall, by Authority in Writing under their Hands, direct the Registrar to correct the erroneous Entry; and it shall be lawful for the Registrar and he is hereby required thereupon to correct the erroneous Entry according to the Truth of the Case by Entry in the Margin without any Alteration of the original Entry; and such marginal Entry shall contain a Reference to the Deposition upon which the said Justices directed the Correction to be made, and shall be dated on the Day on which it is made, and signed by the Parties applying for the Correction and by the Registrar; and in every Case the Registrar shall make the like Alteration in the certified Copy of the Register Book, to be made by him as herein-after provided; provided that in case such certified Copy shall have been already made, he shall make and deliver in like Manner a separate certified Copy of the original erroneous Entry, and of the marginal Correction therein made.

*Returns.*

Certified Copies of Registers of Births and Deaths to be sent quarterly, and the Register Books, when filled, to the Superintendent Registrar.

**39.** In the Months of *April*, *July*, *October*, and *January*, on such Days as shall from Time to Time be appointed by the Registrar General, every Registrar shall make and deliver to the Superintendent Registrar of his District, on durable Materials, a true Copy, certified by him under his Hand, according to the Form (G.) to this Act annexed, of all the Entries of Births and Deaths during the *Three* Months last preceding, in the Register Books kept by him, the First of such certified Copies to be given in the *Month of April in the Year One thousand eight hundred and sixty-three*, and the Superintendent Registrar shall examine the same, and if found to be correct shall certify the same under his Hand to be a true Copy: If there shall have been no Birth or Death registered since the Delivery of the last Certificate, the Registrar shall certify the Fact, and such Certificate shall be delivered to the Superintendent Registrar as aforesaid, and be countersigned by him: The Registrar shall keep safely each of the Register Books furnished to him as herein-before mentioned until it shall be filled, and shall then deliver it to the Superintendent Registrar, to be kept by him with the Records of his Office.

Superintendent Registrars to send certified

**40.** Every Superintendent Registrar shall, *Four* Times in every Year, on such Days as shall be named for the Purpose by the Registrar General, send to the Registrar General all the certified Copies of

Copies of Registers of Births and Deaths.

the Registers of Births and Deaths which he shall have received from the Registrars of Births and Deaths as aforesaid during the *Three* Calendar Months next preceding such Days of Transmission respectively, and the Registrar General, if it shall appear by Interruption of the regular Progression of Numbers or otherwise that the Copy of any Part of any Book has not been duly delivered to him, shall procure, as far as possible, consistently with the Provisions of this Act, that the same may be remedied and supplied: The certified Copies so sent to the General Register Office shall be thereafter kept in the said Office in such Order and Manner as the Registrar General, under the Direction of the Lord Lieutenant, shall think fit, so that the same may be most readily seen and examined.

*Fees.*

Superintendent Registrars to be paid for the certified Copies sent to General Register Office.

**41.** Every Superintendent Registrar shall make out an Account *twice* in every Year, on such Days as shall from Time to Time be appointed by the Registrar General, of the Number of Entries in such certified Copies so sent by him to the Registrar General as provided by this Act, and shall send the said Account to the Registrar General: If on Examination and Comparison with the certified Copies of the Registers or Certificates received by the Registrar General such Account shall be found correct, the Superintendent Registrar shall be entitled to receive *Twopence* from the Registrar General for every Entry in such certified Copies of Registers of Births and Deaths.

Registrars to make out Accounts quarterly.

**42.** Every Registrar shall make out an Account *Four* Times in every Year, on such Days as shall from Time to Time be appointed by the Registrar General, of the Number of Births and Deaths which he shall have registered in pursuance of the Provisions of this Act since the last Account, and the Superintendent Registrar shall verify and sign the same.

Payment to Registrars.

**43.** The Registrar General, on Production of the Accounts so verified and signed, shall pay to the Registrar at the rate of *Sixpence* for every Entry of Birth or Death included in such Accounts, and the same shall be repaid to the Registrar General in the Manner hereinafter provided.

Grand Jury to present Sums paid to Registrars on Application of Registrar General.

**44.** The Grand Jury of each County shall, on the Application of the Registrar General, present at the next ensuing Assizes or Presenting Term, without any previous Application at Presentment Sessions, the Sum or Sums of Money which may be required by such Application to pay the Registrars as aforesaid, and also such Sum or Sums of Money as may be necessary to provide and uphold Register Offices within such County, and the same shall be levied off such County accordingly,

accordingly, or in default thereof the same shall be inserted in and raised by an Order of the Judge of Assize, or of the Court at any Presenting Term, which Order shall have the Force of a Presentment, and the Sum or Sums therein mentioned shall be applotted, raised, and levied accordingly as if the same had been inserted in a Presentment duly made at the Assizes or Presenting Term at which such Order shall be made; and the Sum or Sums of Money so raised shall be paid by the Treasurer of such County to the Credit of the Registrar General in the Bank of Ireland for such Purpose, and the Receipt of the Governor and Company of the Bank of Ireland for the Sums so lodged shall be a sufficient Acquittance to the Treasurer of the County.

*General Provisions.*

Penalty for wilfully giving false Information.

**45.** Every Person who shall wilfully make or cause to be made, for the Purpose of being inserted in any Register of Birth or Death, any false Statement touching any of the Particulars herein-required to be known and registered, shall be subject to the same Pains and Penalties as if he were guilty of Perjury.

Penalty for not duly registering Births or Deaths, or for losing or injuring Registers.

**46.** Every Registrar who shall refuse or without reasonable Cause omit to register any Birth or Death of which he shall have had due Notice, and every Person having the Custody of any Register Book or of any Part thereof, who shall carelessly lose or injure the same, or carelessly allow the same to be injured whilst in his Keeping, shall forfeit a Sum not exceeding *Fifty Pounds* for every such Offence.

Penalty for neglecting to send Register Books to Superintendent Registrar.

**47.** Every Person who under the Provisions of this Act is required to deliver the Registers of Births and Deaths, or Copies of such Registers, to any Superintendent Registrar or to the Registrar General, and who after being duly required to deliver such Registers as aforesaid shall refuse or during *One Calendar Month* neglect to do so, shall be liable for every such Offence to forfeit a Sum not exceeding *Ten Pounds*, to be recovered as other Penalties for Offences against this Act are made recoverable.

Penalty for destroying or falsifying Register Books.

**48.** The Thirty-sixth and Thirty-seventh Sections of an Act passed in the Twenty-fourth and Twenty-fifth Years of Her Majesty, intituled "An Act to consolidate and amend the Statute Law of England and Ireland relating to Indictable Offences by Forgery," shall be incorporated with and form Part of this Act.

Recovery of Penalties.

**49.** All Penalties by this Act imposed shall be recoverable before any Two Justices of the Peace for the County, City, or Place

where the Offence shall have happened, or before any Magistrate of Police of the Police District of Dublin Metropolis when the Offence shall have happened within the said District; and the Provisions of "The Petty Sessions (Ireland) Act, 1851," as the same is amended by "The Petty Sessions Clerk (Ireland) Act, 1858," shall, so far as the same are applicable, extend to the Recovery of all such Penalties as aforesaid; and the Commission or Omission of any of the Acts, Matters, or Things herein-before contained, subjecting the Parties committing or omitting the same to any of the Penalties imposed by this Act, shall be deemed to be an Offence within the Twenty-second Section of "The Petty Sessions (Ireland) Act, 1851," and the said Penalties shall be recoverable in the Manner by the said Act provided for the Recovery of Penalties, and shall be applied in such Manner as is provided by "The Fines Act (Ireland), 1851," and "The Petty Sessions Clerk (Ireland) Act, 1858."

FORMS

# FORMS to which the foregoing Act refers.

## FORM (A.)

BIRTHS registered in the Sub-District of [ ] in the District of [ ] in the County of [ ].

| No. | Date and Place of Birth. | Name (if any). | Sex. | Name and Surname and Dwelling Place of Father. | Name and Surname and Maiden Surname of Mother. | Rank or Profession of Father. | Signature, Qualification, and Residence of Informant. | When registered. | Signature of Registrar. | Baptismal Name, if added after Registration Birth, and Date. |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | *6th January 1863. 15, George's Street.* | *John* | *Male* | *James Rea - 15, George's Street.* | *Sarah Rea, formerly Thompson* [if married more than once Surnames of former Husbands should be stated.] | *Carpenter -* | *James Rea, (Father), Carpenter, 15, George's Street, Kingstown.* | *10th January 1863.* | *John Cox, Constable,* REGISTRAR | *Robert.* *15th February 1863.* |

The Words and Figures in *Italics* to be filled in according to the Facts.

## FORM (B.)

DEATHS registered in the Sub-District of [ ] in the District of [ ] in the County of [ ].

| No. | Date and Place of Death. | Name and Surname. | Sex. | Condition. | Age last Birthday. | Rank, Profession, or Occupation. | Cause of Death and Duration of Illness. | Signature, Qualification, and Residence of Informant. | When registered. | Signature of Registrar. |
|---|---|---|---|---|---|---|---|---|---|---|
| *1* | *24th January 1863. High Street.* | *James Green* | *Male* | *Married, Bachelor, or Widower* (as the Case may be). | *43 Years* | *Carpenter* - | *Pneumonia, Two Months, certified.* | *Sarah Green, Widow, High Street, present at the Death.* | *25th January 1863.* | *John Cox, Constable,* REGISTRAR. |

The Words and Figures in *Italics* to be filled in according to the Facts.

FORM (C.)

I of do hereby certify, That I have this Day baptized, by the Name of a [*state the Sex*] Child produced to me by as the Child of *A.B.* and *C.D.* of , and declared by the said to have been born at in the County of on the Day of One thousand eight hundred and .

Witness my Hand this Day of One thousand eight hundred and .

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FORM (D.)

To the Registrar of the Sub-District of in the County of .

I hereby certify, That I attended , who was apparently aged or was stated to be aged Years; that I last saw him [*or* her] on the Day of 186 ; that he [*or* she] died on the Day of 186 at ; that the Cause of his [*or* her] Death was ; and that the Disease had continued .

Witness my Hand this Day of One thousand eight hundred and .

(Signed)
*Profession.*
*Residence.*

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FORM (E.)

I , Registrar of Births and Deaths in the Sub-District of in the County , do hereby certify, That the Death of was duly registered by me, on the Day of 18 .

Witness my Hand this Day of 18 .
, Registrar.

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## FORM (F.)

I , Coroner for the County of , do hereby order the Burial of the Body now shown to the Inquest Jury as the Body of

Witness my Hand this Day of 186 .

, Coroner.

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## FORM (G.)

I , Registrar of Births and Deaths in the Sub-District of in the County of , do hereby certify, That this is a true Copy of the Registrar's Book of Births [*or* Deaths] within the said Sub-District from the Entry of the Birth [*or* Death] of No. , to the Entry of the Birth [*or* Death] of , No .

Witness my Hand this Day of 18 .

, Registrar.

[The Words in *Italics* and the Blanks for Words and Figures in the above Forms to be filled in as the Case may be.]

A

# BILL

TO

## Prevent the Employment of Women and Children during the Night in certain Operations connected with Bleaching by the open-air Process.

WHEREAS it is the Practice of a few Occupiers of Bleach Fields or Works in which the Operation of Bleaching by the open-air Process is the only Operation of Bleaching carried on, and which consequently are not regulated by the Provisions of the Act of the Twenty-third and Twenty-fourth Years of Victoria, Chapter Seventy-eight, to employ Females unnecessarily during the Night in Processes in which mechanical Power is used: And whereas the Exemption accorded to such Works in virtue of the First and Seventh Clauses of the said recited Act was not intended to give Sanction to a Practice (so injurious to the Health and Morals of the Persons so employed): Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. That from and after the *First Day of January One thousand eight hundred and sixty-three* any Building, Buildings, or Premises in One or more of which any Process previous to packing is carried on in the Occupation of bleaching, dyeing, or finishing of any Yarn or Cloth Women and Children not to be employed during the Night at Machinery.

Cloth of Cotton, Silk, Wool, or Flax, or any of them, or any Mixture of them, or any Yarn or Cloth of any other Material or Materials, including the Occupation of bleaching by the open-air Process as defined in the Act of the Twenty-third and Twenty-fourth Years of Victoria, Chapter Seventy-eight, and in One or more of which Processes Steam, or Water, or other mechanical Power is used or employed; it shall not be lawful to employ at any Machinery Females, young Persons, and Children, or any of them, during the Night, that is to say, from *Six* of the Clock in the Evening to *Six* of the Clock in the Morning, excepting to recover lost Time in the Manner provided by "The Bleaching and Dyeing Works Act," Twenty-third and Twenty-fourth Victoria, Chapter Seventy-eight.

A

# BILL

INTITULED

## An Act to alter certain Provisions of the Bleaching and Dyeing Works Act, Twenty-third and Twenty-fourth Victoria, Chapter Seventy-eight.

Preamble.

WHEREAS an Act was passed in the Twenty-third and Twenty-fourth Years of the Reign of Her Majesty Queen Victoria, intituled "An Act to place the Employment of "Women, young Persons, and Children in Bleaching Works and "Dyeing Works under the Regulations of the Factories Acts," by which it was enacted, that from and after the First Day of August One thousand eight hundred and sixty-one the Powers and Provisions of the therein-before recited Acts should apply and be held to apply to Bleaching Works and Dyeing Works, except as therein was excepted, to all Intents and Purposes as completely and effectively as if such Bleaching and Dyeing Works had been mentioned and included in the Provisions of the therein-before recited Acts, or any of them, except as was therein-after provided; nevertheless, it was provided that, until the First Day of August One thousand eight hundred and sixty-two, it should be lawful to employ Females above the Age of Eighteen Years and young Persons in Bleaching Works and Dyeing Works until Eight of the Clock at Night on every working Day except Saturdays, and until Half past Four of the Clock in the Afternoon

23 & 24 Vict. c. 78.

Afternoon on Saturdays: And whereas it is expedient that the Power so limited until the First Day of August One thousand eight hundred and sixty-two should be extended until the First Day of August One thousand eight hundred and sixty-three, and that certain other Provisions in that Act which were to come into operation after the First Day of August One thousand eight hundred and sixty-two should not come into operation until the First Day of August One thousand eight hundred and sixty-three: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Construction of Secs. 1, 2, and 5. of recited Act.

**1.** The Words in Section One of the recited Act, "First Day of August One thousand eight hundred and sixty-two," shall be read as if such Words were "First Day of August One thousand eight hundred and sixty-three;" the Words in Section Two of the recited Act, "First Day of August One thousand eight hundred and sixty-two," shall be read as if such Words were "First Day of August One thousand eight hundred and sixty-three;" and the Words in Section Five of the recited Act, "after the Month of July One thousand eight hundred and sixty-two," shall be read as if such Words were "after the Month of July One thousand eight hundred and sixty-three;" and such respective substituted Words shall have Effect accordingly, and the recited Act shall be construed as if the substituted Words formed Part of that Act.

A

# BILL

TO

## Enable the Trustees of the British Museum to remove Portions of their Collections.

WHEREAS the British Museum was established and the Management thereof vested in a Corporate Body of Trustees by virtue of an Act passed in the Twenty-sixth Year of the Reign of King George the Second, Chapter Twenty-two, and intituled "An Act for the Purchase of the Museum or Collection "of Sir Hans Sloane and of the Harleian Collection of Manuscripts, "and for providing One General Repository for the better Reception "and more convenient Use of the said Collections, and of the Cot-"tonian Library, and of the Additions thereto," wherein it was provided that a General Repository should be erected within the Cities of London or Westminster or the Suburbs thereof, in such convenient Place as the Trustees should direct, for the Reception of the several Collections in the Title of the said Act mentioned, and of such other Collections and Libraries as with the Approbation of the Trustees should be admitted into the said General Repository, which several Collections, Additions, and Libraries so received into the said General Repository should remain and be preserved therein for

Preamble.

26 G. 2. c. 22.

Public Use to all Posterity: And whereas the British Museum has since its Foundation become so greatly extended in various Departments of Literature, Science, and Art as to render necessary for the Reception of the Additions which are from Time to Time made to it a much larger Space than can be conveniently obtained in the Neighbourhood of the present Museum: And whereas, in addition to Collections of Books, Manuscripts, Antiquities, Objects of Natural History, and other miscellaneous Objects, the Trustees of the British Museum are possessed of a Number of Pictures: And whereas it is expedient that Power should be given to the said Trustees to provide Room for the Additions to the Museum by disposing in manner herein-after mentioned of the Collections referred to in the Second and Third Parts of the Schedule annexed hereto, and of the said Pictures: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Power to remove certain Collections to Kensington Gore.

**1.** The Trustees of the British Museum may, with the Consent of the Commissioners of Her Majesty's Treasury, remove the Collections specified in the Second Part of the said Schedule, or any of them, or any Part thereof, to such Repository as may be provided for their Reception on the Estate of the Commissioners for the Exhibition of 1851 at Kensington Gore, there to remain and be preserved for Public Use to all Posterity.

Power to remove certain other Collections elsewhere.

**2.** The Trustees of the British Museum may, with such Consent as aforesaid, from Time to Time remove the Collections specified in the Third Part of the said Schedule, or any of them, or any Part thereof, to any Repository or Repositories in the Metropolis or its Neighbourhood that may be provided for their Reception by the Commissioners of Her Majesty's Treasury; subject to this Proviso, that no Removal in pursuance of this Section of any Collection or Part of a Collection shall take place unless a Notice of the Collection or Objects to be removed, accompanied with a Statement of the Place to which they are proposed to be removed, has been laid on the Table of both Houses of Parliament during their Session *Six* Weeks at the least previously to such Removal.

Power of Trustees over Pictures and original Drawings.

**3.** The Trustees of the British Museum may, with such Consent as aforesaid, assign to the Trustees and Director of the National Gallery, or to any Department of Her Majesty's Government, or partly to the one Body and partly to the other, all or any Pictures belonging to them:

All

All Pictures assigned in pursuance of this Act shall be held by the Assignees on trust to preserve the same for the Public Use to all Posterity; but upon their being so assigned, the Trustees of the British Museum shall be deprived of all Right to and be released from all Responsibility in respect thereof.

Questions as to Classification of Objects.

**4.** If any Question arises as to the particular Collection to which any Object in the Museum belongs, such Question shall for the Purposes of this Act be finally determined by the Trustees of the Museum.

Saving Clause.

**5.** Except in so far as is herein-before expressed, nothing herein contained shall affect the Rights, Powers, Duties, or Obligations of the Trustees of the British Museum.

Short Title of Act.

**6.** This Act may be cited for all Purposes as the "British Museum Act, 1862."

## SCHEDULE.

### PART I.

**Collections to remain at the British Museum.**

Printed Books.
Manuscripts.
Prints and Drawings.
Greek, Roman, Oriental, and British Antiquities.
Coins and Medals.

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### PART II.

**Collections capable of being removed to South Kensington.**

Collections belonging to the Departments of Zoology, Mineralogy, Geology, and Palæontology, or any of such Departments.

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### PART III.

**Collections capable of being removed to any Repository in the Metropolis or its Suburbs.**

Collections belonging to the Departments of Botany and Ethnography, or either of such Departments.

Collections of Mediæval Antiquities, and other Articles not forming Part of the Collections mentioned in Part I. of this Schedule.

A

# BILL

TO

## Authorize Improvement Commissioners acting as Burial Boards to mortgage certain Rates for the Purposes of the Burial Acts.

WHEREAS by an Act passed in the Session holden in the Twenty-third and Twenty-fourth Years of the Reign of Her Majesty (Chapter Sixty-four), to make further Provision for the Expenses of Local Boards of Health and Improvement Commissioners acting as Burial Boards, it was enacted, that any Money required by any Commissioners elected by the Ratepayers, and acting under or by virtue of the Powers of any Local Act of Parliament for the Improvement of any Town, Parish, or Borough, who should have been constituted a Burial Board for defraying the Expense of carrying into execution the Powers and Provisions of the Burial Acts in the District for which they may have been so constituted a Burial Board, or for paying any Monies borrowed or Annuities granted under the Authority of the said Acts, or any Interest on Monies borrowed, or for providing a Sinking Fund for the Repayment of such Monies, might, if the Commissioners thought fit, be paid out of the Improvement Rate leviable within such District; and the Commissioners, as such Burial Board, might

Preamble. 23 & 24 Vict. c. 64.

might levy as Part of the Improvement Rate, or by a separate Rate under the Name and Designation of a Burial Rate, to be assessed and recovered in like Manner as an Improvement Rate, such Sums of Money as should be from Time to Time necessary for the Purposes aforesaid or any of them: And whereas Doubts have arisen whether under such Provisions the Improvement Rate or Burial Rate can be legally mortgaged or assigned as a Security for the Payment of the Sums referred to in the said Act, and it is expedient that the Commissioners acting as such Burial Board should have the Power of mortgaging the said Rates: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Commissioners, with the Consent of the Treasury, may mortgage Improvement Rate and Burial Rate, or either.

**1.** Any Commissioners elected by the Ratepayers, and acting under or by virtue of the Powers of any Local Act of Parliament for the Improvement of any Town, Parish, or Borough, who shall have been constituted a Burial Board for any District, may, with the Approval of the Commissioners of Her Majesty's Treasury, from Time to Time borrow at Interest on Mortgage of the Improvement Rate and Burial Rate, or either of them, leviable within the District, such Sums of Money as may be required by the Burial Board for the Purposes of the Burial Act within the District.

Certain Provisions of "The Commissioners Clauses Act, 1847," to apply.

**2.** The Clauses and Provisions of "The Commissioners Clauses Act, 1847," with respect to the Mortgages to be executed by the Commissioners, shall be incorporated with this Act, and shall be applicable to all Mortgages created under the Provisions thereof.

17 *March* 1862. 25 Vict.

A

# BILL

TO

## Make further Provision with respect to Burials in England and Wales.

WHEREAS it is expedient to extend the Rights of Parishioners in Parish Burial Grounds: And whereas at no Burials in Parish Churchyards is any Burial Service allowed to be used except that ordained by the Liturgy of the Church of England as by Law established, and no Burials as aforesaid can be celebrated except by the Rector, Vicar, Curate, or other officiating Minister of the said Church of England in whose Churchyard such Burials shall be had: And whereas such Minister of the said Church may not dispense with the Celebration of such Service, or permit the Substitution of any other Service in lieu thereof: To the End, therefore, that all Classes of Her Majesty's Subjects may be permitted to have the Rites of Burial according to the Rites of the several Religions professed by them, be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. From and after the *passing of this Act* it shall and may be lawful for the officiating Minister of the said Church of England in each and every Parish in England and Wales, upon Application being made to him in Writing by any Clergyman or Minister of any Church Officiating Parish Clergyman may grant Permission to Clergy-

men not of the Church of England to perform Burial Service.

Church or Congregation not being of the Established Church of England, stating the Death of any Member or Members of such Church or Congregation for Permission to perform the Burial Service at the Grave of such Person or Persons in the Churchyard of such Parish according to the Rites of such Church or Congregation, to grant Permission accordingly: Provided always, that such Permission for the Performance of such Burial Service at the Grave according to the Rites of such Church or Congregation shall be in Writing, and that in order to prevent any Interruption of or Interference with the Celebration of any of the Rites of the said Church of England, such Interment and Service shall be had and celebrated at such Time only as shall be appointed by such Permission by such officiating Minister of the said Church of England: Provided always, that if no Refusal shall be given to such Application as aforesaid within the Space of *Forty-eight* Hours after the same shall have been given, then Permission shall be presumed to have been given in compliance with such Application.

Permission to be in Writing, and Interment and Service had at the appointed Time.

If Permission withheld, Cause declared by officiating Minister in Writing.

**2.** If such Permission shall in any Case be withheld, the Cause of withholding the same shall be specially and distinctly declared in Writing by such officiating Minister of the said Church of England, one Part of which written Declaration shall forthwith be delivered to the Person making such Application as aforesaid, and the other Part thereof shall be forthwith transmitted to the Bishop of the Diocese in which such Churchyard shall be situated, and shall be by him transmitted forthwith, signed by the Registrar of such Diocese, to Her Majesty's Principal Secretary of State for the Home Department.

Officiating Minister not to celebrate Burial Service unless required.

**3.** It shall not be necessary for such officiating Minister of the said Church of England to celebrate nor shall he celebrate the Burial Service ordained by the Liturgy of the said Church of England at the Interment of any Person not being of the Established Church of England, unless at the Desire of the Person so applying at the Interment of such Person specified in the Application or Permission, any Law, Canon, or Usage to the contrary notwithstanding.

Obstructing Burial Service deemed a Misdemeanor.

**4.** If after such Permission granted or to be presumed as granted as aforesaid, any Person or Persons shall disturb or interrupt the Performance of the said Burial Service at the Grave of a Person specified in such Permission, such Person or Persons so disturbing or interrupting shall be deemed guilty of a Misdemeanor and shall be liable to be prosecuted therefor.

Act not to extend to Scotland and Ireland.

**5.** This Act shall not extend to Scotland or Ireland, but shall extend to all consecrated Burial Grounds in England and Wales.

A

# BILL

[AS AMENDED BY THE SELECT COMMITTEE]

TO

## Make further Provision with respect to Burials in England and Wales.

WHEREAS it is expedient to amend the Laws relating to Burials in England and Wales in certain Cases: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. From and after the passing of this Act the Officiating Minister of the Church of England in each and every Parish in England and Wales, upon Application made to him in Writing by the Relative having the Conduct of the Funeral of any Person entitled to Burial in such Parish for Permission for the Burial to take place without any Service, shall grant such Permission, and shall appoint some convenient Hour for such Burial. Officiating Minister shall grant Permission for Burial without Service.

Clause A.

2. The Officiating Minister of the Church of England in each and every Parish in England and Wales, upon Application made to him in Writing by the Relative having the Conduct of the Funeral of any Person entitled to Burial in such Parish, for Permission to have a Burial Service performed at the Grave of such deceased Person other Officiating Minister may grant Permission to Minister not of the Church of England

to perform Service.

other than that of the Church of England, may, if he think fit, give such Permission as aforesaid; provided that such Application shall be in Writing, and be signed by the Applicant, and that it state that the Deceased was not a Member of the Church of England, and to what Religious Denomination he belonged; also the Name of the Minister of the same Denomination who it is proposed should officiate at such Burial; also the Description of the Service which is intended to be used at such Burial, and the Day, and between what Hours of such Day, it is proposed that such Burial should be performed; provided that such Service, if not according to a published Ritual, consist only of Prayers, Hymns, or Extracts from Holy Scripture.

CLAUSE B. Mode of giving Permission.

Proceeding in case of Refusal.

**3.** The said Officiating Minister shall, within Forty-eight Hours after Delivery to him or at his Abode of such Application, give, under his Hand, his Consent or Refusal, on Demand, and, if he shall Consent shall appoint some convenient Hour for the Burial; but if such Permission as aforesaid be withheld, his Reasons for withholding the same shall, within One Week, be transmitted by the Officiating Minister to the Registrar of the Bishop of the Diocese in which such Burial Ground shall be situated, and shall be by him transmitted forthwith, signed by the Registrar of such Diocese, to Her Majesty's Principal Secretary of State for the Home Department.

CLAUSE C. Officiating Minister not to be liable to Censure or Penalties.

**4.** In any Case in which Permission has been asked or given under this Act, the said Minister shall not be liable to any Censure or Penalties, Ecclesiastical or Civil, for not using the Service of the Church of England.

CLAUSE D. Obstructing Burial deemed a Misdemeanor.

**5.** After such Permission granted, any Person or Persons disturbing or interrupting the Burial shall be deemed guilty of a Misdemeanor.

CLAUSE E. Extent of the Act.

**6.** So far as regards any Permission to use any Burial Service other than that of the Church of England, this Act shall not extend to the consecrated Part of any Public Cemetery containing both consecrated and unconsecrated Ground.

A

# BILL

TO

## Regulate the Procedure in the High Court of Chancery and the Court of Chancery of the County Palatine of Lancaster.

WHEREAS the High Court of Chancery has Power in certain Cases to refuse or postpone the Application of Remedies within its Jurisdiction, until Questions of Law and Fact on which the Title to such Remedies depends have been determined or ascertained in One of Her Majesty's Courts of Common Law: And whereas it is expedient that the said Power should no longer exist, and that in all such Cases every Question of Law and of Fact arising in the said Court of Chancery, on which the Right of any Party to any equitable Relief or Remedy depends, and whether the Title to such Relief or Remedy be or be not incident to or dependent upon a legal Right, should be determined by or before the said Court itself: And whereas the Procedure of the Court of Chancery of the County Palatine of Lancaster has been assimilated to the Procedure of the said High Court in the Matters aforesaid; and it is expedient that the future Procedure of the said Courts should also be alike: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual Preamble.

Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Court shall determine every Question of Law and Fact incident to the Relief sought.

**1.** In all Cases in which any Relief or Remedy within the Jurisdiction of the said Courts of Chancery respectively is or shall be sought in any Cause or Matter instituted or pending in either of the said Courts, and whether the Title to such Relief or Remedy be or be not incident to or dependent upon a legal Right, every Question of Law or Fact on the Determination of which the Title to such Relief or Remedy depends shall be determined by or before the same Court.

Where Expense will be thereby saved, Issues of Fact may be tried at the Assizes.

**2.** Provided always, That whenever it shall appear to either of such Courts that Expense will be thereby saved (but not in any other Case), it shall be lawful for such Court, notwithstanding anything in this Act contained, to direct an Issue to try any Question of Fact at the Assizes to be held in and for any County where the same may be conveniently tried; and (subject to such General Orders, if any, as may hereafter be made in relation thereto,) the Practice hitherto existing in such Court in reference to the Trial of Issues shall prevail in reference to the Trial of any Issues directed under this Proviso.

Provisions of Chancery Amendment Act, 1858, to apply to this Act.

**3.** All the Provisions with reference to the Trial of Questions of Fact by or before the High Court of Chancery, and by or before the Court of Chancery of the said County Palatine, which are contained in "The Chancery Amendment Act, 1858," shall apply to the Determination of Questions of Fact by or before the said Courts respectively under this Act.

The High Court of Chancery may sit with Assistance of Common Law Judge.

**4.** Nothing in this Act contained shall alter or affect the Power of the Judges of the High Court of Chancery to sit with the Assistance of a Judge of any of Her Majesty's Courts of Common Law.

Commencement of Act, and Short Title.

**5.** This Act shall commence and take effect from and after the *First Day of November One thousand eight hundred and sixty-two*, and may be cited or referred to as "The Chancery Regulation Act, 1862."

A

# B I L L

[AS AMENDED IN COMMITTEE]

TO

## Regulate the Procedure in the High Court of Chancery and the Court of Chancery of the County Palatine of Lancaster.

WHEREAS the High Court of Chancery has Power in certain Cases to refuse or postpone the Application of Remedies within its Jurisdiction, until Questions of Law and Fact on which the Title to such Remedies depends have been determined or ascertained in One of Her Majesty's Courts of Common Law: And whereas it is expedient that the said Power should no longer exist, and that in all such Cases every Question of Law and of Fact arising in the said Court of Chancery, on which the Right of any Party to any equitable Relief or Remedy depends, and whether the Title to such Relief or Remedy be or be not incident to or dependent upon a legal Right, should be determined by or before the said Court itself: And whereas the Procedure of the Court of Chancery of the County Palatine of Lancaster has been assimilated to the Procedure of the said High Court in the Matters aforesaid; and it is expedient that the future Procedure of the said Courts should also be alike: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual Preamble.

Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Court shall determine every Question of Law and Fact incident to the Relief sought.

**1.** In all Cases in which any Relief or Remedy within the Jurisdiction of the said Courts of Chancery respectively is or shall be sought in any Cause or Matter instituted or pending in either of the said Courts, and whether the Title to such Relief or Remedy be or be not incident to or dependent upon a legal Right, every Question of Law or Fact on the Determination of which the Title to such Relief or Remedy depends shall be determined by or before the same Court.

Where Questions of Fact may be more conveniently tried at Assizes, Issues may be directed.

**2.** Provided always, That whenever it shall appear to either of such Courts that any Question of Fact may be more conveniently tried by a Jury at the Assizes, or at any Sitting in London or Middlesex for the Trial of Issues in the Superior Courts of Common Law, it shall be lawful for such Court, notwithstanding anything in this Act contained, to direct an Issue to try any Question of Fact at the Assizes to be held in and for any County where the same may be conveniently tried, or at any such Sitting for the Trial of Issues in London or Middlesex as aforesaid; and (subject to such General Orders, if any, as may hereafter be made in relation thereto,) the Practice hitherto existing in such Court in reference to the Trial of Issues shall prevail in reference to the Trial of any Issues directed under this Proviso.

Provisions of Chancery Amendment Act, 1858, to apply to this Act.

**3.** All the Provisions with reference to the Trial of Questions of Fact by or before the High Court of Chancery, and by or before the Court of Chancery of the said County Palatine, which are contained in "The Chancery Amendment Act, 1858," shall apply to the Determination of Questions of Fact by or before the said Courts respectively under this Act.

Proviso in Cases where Object of Suit to recover or defend Possession of Land under a legal Title.

**4.** Provided also, That in all Cases in which the Object of any Suit in Equity shall be to recover or to defend the Possession of Land under a legal Title, or under a Title which would have been legal but for the Existence of some outstanding Term, Lease, or Mortgage (and whether mesne Profits or Damages shall or shall not also be sought in such Suit), such Relief only shall be given in Equity as would have been proper according to the Rules and Practice of the Court if this Act had not passed; and nothing in this Act shall make it necessary for a Court of Equity to grant Relief in any Suit concerning any Matter as to which a Court of Common Law has concurrent Jurisdiction, if it shall appear to the Court that such Matter has been improperly brought into Equity, and that the same ought to have been left to the sole Determination of a Court of Common Law.

**5.** Nothing

The High Court of Chancery may sit with Assistance of Common Law Judge.

**5.** Nothing in this Act contained shall alter or affect the Power of the Judges of the High Court of Chancery to sit with the Assistance of a Judge of any of Her Majesty's Courts of Common Law.

Commencement of Act, and Short Title.

**6.** This Act shall commence and take effect from and after the First Day of November One thousand eight hundred and sixty-two, and may be cited or referred to as "The Chancery Regulation Act, 1862."

# Chancery Regulation.

A

# BILL

[AS AMENDED IN COMMITTEE]

To regulate the Procedure in the High Court of Chancery and the Court of Chancery of the County Palatine of Lancaster.

*(Prepared and brought in by Mr. Rolt and Sir Hugh M. Cairns.)*

*Ordered, by* The House of Commons, *to be Printed,* 26 *March* 1862.

[Bill 61.]

*Under* 1 *oz.*

75

# LORDS AMENDMENTS

TO THE

# CHANCERY REGULATION BILL.

Note.—*The Page and Line refer to the Bill* (55.) *as first printed by the Lords.*

*In the Title.*

Line 4. Leave out ("Court") and insert ("Courts")

Line 5. After ("Chancery") insert ("in England and Ireland")

*Page* 1.

Line 1. Leave out ("Court") and insert ("Courts"), and leave out ("has") and insert ("in England and Ireland have")

Line 3. Leave out ("its") and insert ("their")

Line 8. After ("Fact") insert ("cognizable in a Court of Common Law")

Line 12. Leave out ("Court itself") and insert (Courts themselves")

Line 14. After ("Court") insert ("of Chancery in England")

*Page* 2.

Line 8. After ("Fact") insert ("cognizable in a Court of Common Law")

Line 13. After the First ("or") insert ("as to any Questions of Fact arising in the said Court of Chancery in England")

Line 15. Leave out ("Court") and insert ("Courts")

Line 18. After ("or") insert ("as the Case may be")

[Bill 147.]

# LORDS AMENDMENTS

TO THE

# CHANCERY REGULATION BILL.

*Ordered, by* The House of Commons, *to be Printed.*
4 *June* 1862.

[Bill 147.]

*Under* 1 *oz.*

A

# BILL

FOR

## The better Regulation in certain Cases of the Procedure in the High Court of Chancery in Ireland.

WHEREAS the High Court of Chancery in Ireland has Power in certain Cases to refuse or postpone the Application of Remedies within its Jurisdiction until Questions of Law and Fact on which the Title to such Remedies depends have been determined or ascertained in One of Her Majesty's Courts of Common Law: And whereas it is expedient that the said Power should no longer exist, and that in all such Cases every Question of Law and of Fact, cognizable in a Court of Common Law, arising in the said Court of Chancery, on which the Right of any Party to any equitable Relief or Remedy depends, and whether the Title to such Relief or Remedy be or be not incident to or dependent upon a legal Right, should be determined by or before the said Court itself: And whereas by "The Chancery Regulation Act, 1862," passed in this present Session, Provision has been made for the better Regulation in such Cases of the Procedure in the Court of Chancery in England, by taking away such Power, and providing for the Determination of such Questions in the Court itself, and it is expedient that similar Provisions Preamble.

# Chancery Regulation (Ireland).

A

# B I L L

For the better Regulation in certain Cases of the Procedure in the High Court of Chancery in Ireland.

(*Prepared and brought in by Mr. Butt and Mr. Scully.*)

*Ordered, by* The House of Commons, *to be Printed,* 19 *June* 1862.

[Bill 158.]

*Under* 1 *oz.*

A

# BILL

TO

## Amend the Laws relating to Charitable Donations and Bequests in Ireland.

WHEREAS Doubts have been entertained as to the Power of the Commissioners of Charitable Donations and Bequests in Ireland to accept Devises, Bequests, Gifts, or Transfers of Land or Money or other Real or Personal Property for charitable or pious Uses, and it is expedient to put an End to any such Doubts, and it is also expedient to extend the Powers of the said Commissioners: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. All Gifts, Devises, Bequests, Transfers, or other Conveyances of any Land, Stock, Money, or other Real or Personal Property of whatsoever Nature or Kind heretofore at any Time or Times made to the said Commissioners of Charitable Donations and Bequests in Ireland for charitable or pious Uses shall be and they are hereby ratified and confirmed, and they shall have full force and virtue in Law notwithstanding any actual or supposed Disability in the said Commissioners to accept or receive the same. Former Devises, Gifts, &c confirmed.



2. Any

Persons or Bodies may vest Lands, &c. in Commissioners.

**2.** Any Person or Body Corporate having in his, her, or their own Right any Estate or Interest in Possession, Reversion, or Remainder of or in any Lands, Tenements, or Hereditaments, or any Property of or in any Goods, Chattels, or Monies, shall have full Power at his, her, and their Will and Pleasure, by Deed duly executed and attested, or by his or her last Will in Writing duly executed according to Law, or by actual Gift or Transfer of the same, to give and grant to and vest in the said Commissioners of Charitable Donations and Bequests in Ireland, and their Successors, all such his, her, or their Estate, Interest, or Property in such Lands, Tenements, Hereditaments, Goods, Chattels, and Monies, or any Part or Parts thereof, in trust for charitable or pious Uses, and such Estate, Interest, or Property in such Lands, Tenements, or other Hereditaments, Goods, Chattels, or Monies, shall vest in and be holden by the said Commissioners subject to the Trusts of such Deed and Will respectively without any Writ or Licence other than this Act.

Power to inquire into Condition and Management of Charities.

**3.** It shall be lawful for the said Commissioners from Time to Time to examine and inquire into all or any Charities in Ireland, and the Nature, Objects, Administration, Management, and Results thereof, and the Value, Condition, Management, and Application of the Estates, Funds, Property, and Income belonging thereto, in such Cases and at such Times as the said Commissioners may think fit.

Power to require Accounts and Statements.

**4.** The said Commissioners may require all Trustees or Persons acting or having any Concern in the Management or Administration of any Charity, or the Estates, Funds, or Property thereof, to render to the said Commissioners Accounts and Statements in Writing in relation to such Charity, or the Funds, Estates, Property, Income, or Monies thereof, or the Administration, Management, and Application thereof, and may also require such Trustees or Persons to return Answers in Writing to any Questions or Inquiries addressed to them by the Direction of the said Commissioners relating to the Matters aforesaid.

Persons refusing to render Accounts, guilty of Contempt of Court of Chancery.

**5.** If any Person from whom the said Commissioners are authorized to require any Account or Statement, or Answers to any Questions or Inquiries, shall refuse or wilfully neglect to render to the said Commissioners such Account or Statement, or to make Answer to such Questions or Inquiries, or shall wilfully alter, destroy, withhold, or refuse to produce any Deed, Paper, Writing, Instrument, or other Documents which may be lawfully required to be produced before such Commissioners, every Person so offending, shall be deemed and taken to have been guilty of a Contempt of the High Court

Court of Chancery in Ireland, and shall be liable to be attached and committed by such Court on summary Application by the Commissioners to the same, and shall pay the Costs of and attending such Contempt as the said Court shall direct.

Saving for Persons claiming adversely to Charities.

**6.** Provided always, That nothing herein contained shall extend to give to the said Commissioners any Power of requiring from any Person holding or claiming to hold any Property whatsoever adversely to any Charity, or free or discharged from any Charitable Trust or Charge, any Information on the Production of any Deed or Document whatever in relation to the Property so held or claimed adversely, or any Charitable Trust or Charge alleged to affect the same.

Landsholden upon trust for Charity may be vested in Commissioners.

**7.** Where any Land or any Term or Estate therein holden upon trust for any Charity shall be vested in any Persons or Trustees, or where there shall be no Trustees thereof, or the Persons or Trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such Land, Term, or Estate shall be vested, or all or any of the Persons in whom such Land, Term, or Estate shall be vested cannot be found, or shall be under Age, lunatic, or of Unsound Mind, or otherwise incapable of acting, or shall be out of the Jurisdiction of or not amenable to the Process of the Court of Chancery in Ireland, or where by reason of the reduced Number of the Trustees or other Causes a valid Appointment of new Trustees cannot be made, or where by reason of the Expenses incident to the Appointment of new Trustees, and the Conveyance or Assignment of such Land, Term, or Estate to such new Trustees, it shall appear to the Court of Chancery in Ireland desirable to do so, such Court may order that such Land, Term, or Estate be vested in the said Commissioners of Charitable Donations and Bequests, and thereupon the same shall vest in the said Commissioners and their Successors in trust for the Charity as aforesaid, without any Conveyance or Assurance thereof, but no such vesting Order as aforesaid shall be made in respect of any Land, Term, or Estate as aforesaid holden in trust as aforesaid, vested in any Corporation, without the Consent of such Corporation.

Order may be made, re-vesting Lands in Trustees of Charity.

**8.** It shall be lawful for the said Court of Chancery in Ireland, if it shall so deem fit, from Time to Time to order that all or any Part of the Land, Term, or Estate which shall for the Time being be vested in the said Commissioners by virtue of any such Vesting Order as aforesaid, shall be devested, and that the same shall be vested in the acting Trustee or Trustees for the Time being of the Charity, and such last-mentioned Order shall operate to vest such

Land, Term, and Estate in the Trustee or Trustees therein named without any Conveyance or Assurance.

Commissioners to be bare Trustees.

**9.** Subject to the Orders and Directions of the Court of Chancery in Ireland, such Commissioners shall be deemed bare Trustees, and shall permit the Persons acting in the Administration of the Charity to have the Possession, Management, and Control of the Trust Estates, and the Application of the Income thereof, as if the same had been vested in them.

Trustees may transfer Stock, &c. to Commissioners

**10.** Where Trustees or other Persons having in their Names or in the Name of any deceased Person of whom they are Representatives in the Books of the Bank of Ireland, or of the East India Company, or of any other Public Company, any Annuities, Stock, or Shares, or holding any Government or Parliamentary or other Securities in trust for any Charity, shall be desirous to transfer or deposit the same to or with the said Commissioners in trust for such Charity, or where any Person shall be desirous of transferring or depositing as aforesaid any Annuities, Stocks, Shares, or Securities for discharging any Legacy or Charge given or made to or for the Benefit of any Charity, or where it shall appear to the Court of Chancery in Ireland or to any Judge in Bankruptcy that any Annuities, Stocks, Shares, or Securities held in trust for any Charity, ought for the Purposes of Security or convenient Administration to be transferred or deposited as aforesaid, it shall be lawful for the said Court to order the Transfer or Deposit of such Annuities, Stocks, Shares, or Securities to or with the said Commissioner of Charitable Donations and Bequests in Ireland.

Power to frame Schemes.

**11.** Where upon the Application of any Trustees or other Persons concerned in the Management or Administration of any Charity or interested in the Benefits thereof, (and after such Examination or Inquiry as the Commissioners may think necessary in relation thereto,) or upon Information otherwise obtained by the said Commissioners in relation to any Charity, it shall appear to the said Commissioners to be desirable to have a new Scheme for the Application or Management of the Charity, and such new Scheme as contemplated or considered desirable by the Commissioners cannot be, or it shall, in the Opinion of the Commissioners, be doubtful whether it can be carried into complete Effect by the Court of Chancery in Ireland, or otherwise than by the Authority of Parliament, it shall be lawful for the said Commissioners in every such Case provisionally to approve and certify such new Scheme in the Manner and subject to the Regulations herein-after mentioned.

**12.** *One*

Notice to be given before Approval of Scheme.

**12.** *One Month* at least before any such new Scheme shall be so provisionally approved, Notice thereof shall be given in such Manner as the said Commissioners may in each Case consider proper or expedient for ensuring due Publicity, and every such Notice shall contain such Particular of the proposed Scheme as the said Commissioners shall think fit, and as shall be deemed by the said Commissioners to be sufficient to show the Nature of such Scheme; and where the Nature thereof cannot be conveniently shown in the said Notice, such Notice shall refer to some convenient Place in the Parish or District, and to the Office in Dublin of the said Commissioners, where a Copy of the proposed Scheme shall be deposited and may be inspected, and every such Notice shall require any Objection to such Scheme to be stated or transmitted to the said Commissioners or their Secretary within *One Month* from the Time when such Notice shall have been given.

Commissioners may alter, or modify, or approve of Scheme.

**13.** If after such Notice as aforesaid any Objections or Suggestions shall be made, the Commissioners shall consider the same, and may thereupon, if to them it shall seem fit, alter or modify the Scheme according to any such Objections or Suggestions; and after all such Objections or Suggestions (if any) have been disposed of, or if no such Objections or Suggestions shall have been made, the Commissioners may proceed to approve of such Scheme, and to certify the same in manner herein-after mentioned.

Scheme when approved to be certified by Commissioners.

Copy of Certificate to be deposited in Parish or District, and Noticegiven.

**14.** Every Scheme to be approved by the said Commissioners shall be certified by them, and for that Purpose shall be embodied in a Certificate to be made by the said Commissioners and sealed with their Seal, and in every Case a Copy of such Certificate shall be deposited in some convenient Place within the Parish, or One of the Parishes, or the District in which the Charity in question shall wholly or partially be situated, and at the Office of the said Commissioners in Dublin; and a Notice shall also be given in such Manner as the Commissioners shall direct, which Notice shall refer to the Certificate so deposited, and shall state the Intention of the Commissioners to proceed with the Scheme thereby certified.

This Act and 7 & 8 Vict. c. 97. to be read as One Act.

**15.** This Act and the Act of the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter Ninety-seven, shall be read as One Act.

Title of Act.

**16.** This Act shall be entitled the "Charitable Donations and Bequests (Ireland) Amendment Act."

# Charitable Donations and Bequests (Ireland).

A

# BILL

To amend the Law relating to Charitable Donations and Bequests in Ireland.

(*Prepared and brought in by Mr. Hassard and Mr. Longfield.*)

*Ordered, by* The House of Commons, *to be Printed,* 17 *March* 1862.

[Bill 41.]

*Under* 1 *oz.*

A

# B I L L

INTITULED

An Act to extend the Time for making Enrolments under the Act passed in the last Session of Parliament, intituled "An Act to amend the "Law relating to the Conveyance of Land for "Charitable Uses," and to explain and amend the said Act.

Preamble. 24 & 25 Vict. c. 9.

WHEREAS by an Act passed in the last Session of Parliament, intituled "An Act to amend the Law relating to "the Conveyance of Land for Charitable Uses," Time was given for enrolling certain Deeds, Assurances, and Instruments therein referred to until the Expiration of Twelve Calendar Months next after the passing of the said Act: And whereas the said Act received the Royal Assent on the Seventeenth Day of May One thousand eight hundred and sixty-one, so that the Time thereby given for making such Enrolments will expire at the End of Twelve Calendar Months from that Day: And whereas from the great Number of Deeds, Assurances, and Instruments to be enrolled under the Provisions aforesaid it is reasonable to allow an Extension of Time for that Purpose: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and

Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Extension of Time for Enrolment of Deeds and Assurances.

**1.** Every Deed, Assurance, and Instrument which shall be enrolled before the Seventeenth Day of May One thousand eight hundred and sixty-four shall, for the Purposes of the said Act, have the same Force and Effect which it would have had if it had been enrolled within Twelve Calendar Months next after the passing of the said Act.

Recited Act comprises all Lands whether of Freehold or of Customary or Copyhold Tenure.

**2.** And whereas by the said Act it is enacted that certain Assurances to be thereafter made bonâ fide on a Sale for a full and valuable Consideration should not be deemed null and void by reason of the Consideration consisting wholly or partly of a Rent, Rentcharge, or other annual Payment reserved as therein mentioned, and Doubts have arisen whether the said Enactment refers to any Lands not of Copyhold Tenure: Be it therefore declared and enacted, That the said Enactment comprises and extends to all Lands whether of Freehold or of Customary or Copyhold Tenure.

No Deeds, &c. executed prior to passing of recited Act to require Acknowledgment before Enrolment.

**3.** No Deed, Assurance, or Instrument executed previously to the passing of the said Act shall, for the Purposes thereof, require Acknowledgment prior to Enrolment.

Acts to apply to Cases where separate Deed executed as well after as before passing of recited Act.

**4.** And whereas it is by the Fourth Section of the said Act enacted, that where the Charitable Uses of any such Deed or Assurance for Conveyance as is therein mentioned had been declared by any separate Deed or Instrument, then, if neither of the said Deeds or Instruments had been enrolled, it should not be necessary to enrol such Deed or Assurance for Conveyance, but every such Deed or Assurance for Conveyance should be void, unless such other separate Deed or Instrument should be enrolled within such Time as therein mentioned: And whereas it may happen that such Deed or Assurance of Conveyance may have been executed before the passing of the said Act, but the separate Deed or Instrument declaring the Charitable Uses may not have been executed until after the passing of the said Act: Be it therefore enacted, That the said Act and this Act shall be taken to apply as well to Cases where such separate Deed or Instrument shall be or shall have been executed after as to Cases where it may have been executed before the passing of the said Act; provided only that it be executed within Six Months next after the passing of this Act.

A

# BILL

[AS AMENDED IN COMMITTEE]

INTITULED

## An Act to extend the Time for making Enrolments under the Act passed in the last Session of Parliament, intituled "An Act to amend the "Law relating to the Conveyance of Land for "Charitable Uses," and to explain and amend the said Act.

WHEREAS by an Act passed in the last Session of Parliament, intituled "An Act to amend the Law relating to "the Conveyance of Land for Charitable Uses," Time was given for enrolling certain Deeds, Assurances, and Instruments therein referred to until the Expiration of Twelve Calendar Months next after the passing of the said Act: And whereas the said Act received the Royal Assent on the Seventeenth Day of May One thousand eight hundred and sixty-one, so that the Time thereby given for making such Enrolments will expire at the End of Twelve Calendar Months from that Day: And whereas from the great Number of Deeds, Assurances, and Instruments to be enrolled under the Provisions aforesaid it is reasonable to allow an Extension of Time for that Purpose: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons,

Preamble.
24 & 25 Vict. c. 9.

Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Extension of Time for Enrolment of Deeds and Assurances.

**1.** The Enrolment of every Deed, Assurance, and Instrument which shall be enrolled before the Seventeenth Day of May One thousand eight hundred and sixty-four shall, for the Purposes of the said Act, have the same Force and Effect which it would have had if such Enrolment had been within Twelve Calendar Months next after the passing of the said Act.

Recited Act comprises all Lands whether of Freehold or of Customary or Copyhold Tenure.

**2.** And whereas by the said Act it is enacted that certain Assurances to be thereafter made bonâ fide on a Sale for a full and valuable Consideration should not be deemed null and void by reason of the Consideration consisting wholly or partly of a Rent, Rentcharge, or other annual Payment reserved as therein mentioned, and Doubts have arisen whether the said Enactment refers to any Hereditaments not of Copyhold or Customary Tenure: Be it therefore declared and enacted, That the said Enactment comprises and extends to all Hereditaments whether of Freehold or of Customary or Copyhold Tenure, and to every Estate and Interest therein.

No Deeds, &c. executed prior to passing of recited Act to require Acknowledgment before Enrolment.

**3.** No Deed, Assurance, or Instrument executed previously to the passing of the said Act shall, for the Purposes thereof, require Acknowledgment prior to Enrolment.

Acts to apply to Cases where separate Deed executed as well after as before passing of recited Act.

**4.** And whereas it is by the Fourth Section of the said Act enacted, that where the Charitable Uses of any such Deed or Assurance for Conveyance as is therein mentioned had been declared by any separate Deed or Instrument, then, if neither of the said Deeds or Instruments had been enrolled, it should not be necessary to enrol such Deed or Assurance for Conveyance, but every such Deed or Assurance for Conveyance should be void, unless such other separate Deed or Instrument should be enrolled within such Time as therein mentioned: And whereas it may happen that such Deed or Assurance of Conveyance may have been executed before the passing of the said Act, but the separate Deed or Instrument declaring the Charitable Uses may not have been executed until after the passing of the said Act: Be it therefore enacted, That the said Act and this Act shall be taken to apply as well to Cases where such separate Deed or Instrument shall be or shall have been executed after as to Cases where it may have been executed before the passing of the said Act; provided only that if not already executed it be executed within Six Months next after the passing of this Act.

Clause A. The Third and Fourth

**5.** The Third and Fourth Sections of the said Act shall comprise and extend to all Deeds and Assurances made prior to the passing of the

the said Act under which Possession was, at the Time of the passing of the said Act, held for any Charitable Uses whatsoever, of any Hereditaments of any Tenure whatsoever, or of any Estate or Interest therein, whether such Deeds or Assurances respectively were or were not made for such full and valuable Consideration, and to take effect in possession and without Power of Revocation, as in the said Third Section mentioned.

Sections of recited Act to apply to all Deeds, &c. for Charitable Uses theretofore made.

CLAUSE B.

**6.** Nothing in this Act contained shall extend to render null and void any Deed or Assurance already good and valid.

Act not to invalidate any Deed.

# Charitable Uses Act (1861) Amendment.

A

# B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to extend the Time for making Enrolments under the Act passed in the last Session of Parliament, intituled "An Act to amend the Law relating "to the Conveyance of Land for "Charitable Uses," and to explain and amend the said Act.

(*Brought from the Lords* 1 *April* 1862.)

*Ordered, by* The House of Commons, *to be Printed*, 7 *April* 1862.

[Bill 75.]

*Under* 1 *oz.*

A

# BILL

FOR

## Establishing the Jurisdiction of the Charity Commissioners in certain Cases.

Preamble.

WHEREAS by many Private or other Acts of Parliament, and Decrees or Orders relating to particular Charities, it is or may be provided that various Objects connected with the Administration or Management of such Charities or the Properties thereof shall or may be effected under the Direction or Sanction of the High Court of Chancery, which Objects, in the Absence of such Provisions, might be beneficially and effectually accomplished under the Acts relating to the Charity Commissioners for England and Wales, by means of Orders, to be obtained upon summary Applications to the said Commissioners, and without the Intervention of the said Court; but it has been considered that in some of such Cases the Jurisdiction of the said Commissioners for such Purposes is excluded, and that in others of such Cases the Sufficiency of such Jurisdiction for such Purposes is open to legal Doubt: Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

No Provision in any Act of Parliament, or Decree

**1.** No Provision contained or to be contained in any such Act of Parliament or Decree or Order as aforesaid, for the Appointment or Removal

relating to any Charity under any Order of the Court of Chancery, to exclude any Jurisdiction which might otherwise be exercised by the Charity Commissioners.

Removal of Trustees of any Charity, or for or relating to the Sale, Exchange, leasing, Disposal, or Improvement of any Property, or for the Performance of any other Act connected with the Administration or Management of any Charity or its Endowments, by or under the Order or with the Approval of the Court of Chancery, shall, (in the Absence of any express Direction to the contrary, to be contained in any future Act of Parliament,) exclude or impair any Jurisdiction or Authority which might otherwise be exercised for the like Purposes by the Charity Commissioners for England and Wales.

LORDS AMENDMENTS

TO THE

# CHARITY COMMISSIONERS JURISDICTION BILL.

Note.—*The Page and Line refer to the Bill* (205.) *as printed by the Lords.*

*Page* 1.

Line 1. Leave out from ("by") to ("be") in Line 14. and insert ("the Acts relating to the Charity Commissioners for England and Wales, Authority has been given to the Commissioners to make Orders for various Purposes in Charity Cases upon summary Application, and particularly in relation to the Appointment and Removal of Trustees, and the Sale, Exchange, Leasing, and Improvement of the Property of Charities: And whereas in various Private Acts of Parliament and Decrees and Orders of the High Court of Chancery relating to Charities such Powers and Authorities are often given or reserved, with Directions that the same shall be exercised by the said Court, or with its Sanction or Approbation, and Doubts are entertained whether in such Cases the Authority given to the Charity Commissioners can be validly exercised")

Line 19. Leave out ("or to be contained")

*Page* 2.

Line 2. Leave out from ("Property") to ("by") in Line 4.

Line 7. After ("Parliament") insert ("Order or Decree")

Line 8. After ("be") insert ("properly")

[Bill 252.]

# LORDS AMENDMENTS

TO THE

# CHARITY COMMISSIONERS JURISDICTION BILL.

*Ordered, by* The House of Commons, *to be Printed*,
1 *August* 1862.

[Bill 252.]

*Under* 1 *oz.*

A

# BILL

TO

## Abolish Church Rates.

WHEREAS Church Rates have for some Years ceased to be made or collected in many Parishes by reason of the Opposition thereto, and in many other Parishes where Church Rates have been made the levying thereof has given rise to Litigation and Ill-feeling: And whereas it is expedient that the Power to make Church Rates should be abolished: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** From and after the *passing of this Act* no Church Rate shall be made or levied in any Parish in England or Wales. Church Rates abolished.

**2.** Provided always, That in any Parish where a Sum of Money is at the Time of the *passing of this Act* due on the Security of Church Rates to be made or levied in such Parish under the Provisions of any Act of Parliament, such Rates may still be made and levied pursuant to such Provisions for the Purpose of paying off the Money so due, but not otherwise, until the same shall have been liquidated. Saving where Money due on Security of such Rates.



**3.** Any

Church Rate already made may be recovered.

**3.** Any Church Rate made at any Time before the *passing of this Act* may be collected and recovered in the same Way as if this Act had not been passed.

Short Title.

**4.** This Act may be cited as "The Church Rate Abolition Act, 1862."

# Church Rates Abolition.

A

# BILL

To abolish Church Rates.

(*Prepared and brought in by*
*Sir John Trelawny, Mr. Dillwyn, and*
*Sir Charles Douglas.*)

*Ordered, by* The House of Commons, *to be Printed,*
11 *February* 1862.

[Bill 10.]

*Under* 1 *oz.*

A

# BILL

TO

## Establish a Charge in lieu of Church Rates, for the Commutation thereof, and to afford Facilities for the Provision of other Funds applicable to the Purposes of Church Rates.

Preamble.

WHEREAS Church Rates have for some Years ceased to be made in certain Parishes, and in other Parishes where Church Rates have been made the levying thereof has given rise to Ill-feeling and Litigation: And whereas it is expedient that an annual Charge upon Land should be levied in lieu of Church Rates, and that Provision should be made for the Commutation of such Charge, and for the Reception, holding in trust, and due Application of Benefactions and voluntary Contributions for the Purposes of Church Rates: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Church Rates to be abolished after 31st December 1862, except for Purposes after mentioned.

**1.** After the *Thirty-first Day of December* next after the passing of this Act no Church Rate shall be made in any Parish in England or Wales, except as herein-after mentioned.

Church Rate may continue to be levied

**2.** In every Parish where any Sums of Money shall before *the passing of this Act* have been legally borrowed on the Security of or otherwise

for Payment of existing Debts, but same to be discharged in Ten Years, except under special Circumstances, to be approved of by Governors of Queen Anne's Bounty.

otherwise become legally charged upon or payable out of Church Rates to be made and levied in such Parish, Church Rates shall continue to be made and levied for the Purpose of paying off such Monies and the Interest (if any) thereon, until the same shall be liquidated; and such Church Rates shall be of such Amount as shall ensure the Liquidation of such Monies in a Period of not less than *Ten* Years from the passing of this Act, except under special Circumstances, to be approved of by the Governors of Queen Anne's Bounty, who may authorize a longer Period.

Church Rate already made may be recovered.

3. Any Church Rate made at any Time before the *passing of this Act* may be collected, levied, and recovered in the same Way as if this Act had not been passed.

All Lands liable to Church Rates in any Ecclesiastical Parish where Church Rate has been made or levied within Seven Years liable to Church Charge.

4. All Lands, Houses, and Tenements in respect of the Occupation whereof the Occupiers, but for the passing of this Act, would be liable to be assessed to the Church Rate in any Ecclesiastical Parish in England or Wales, in which any Church Rate has been made or levied at any Time within *Seven* Years before the passing of this Act, (except as hereafter mentioned,) shall be and become and are hereby made subject and liable to an annual Charge after the Rate of *Twopence* for every One Pound Sterling of the rateable Value of such Lands, Houses, and Tenements, and after the same Rate for any less Amount than One Pound Sterling of such annual Value, and such Charge shall be called the Church Charge; but no Parish shall be liable to contribute by Church Charge to the Church Charge of any other Parish; and all Parishes whereof any Proof is given in manner mentioned that a Church Rate has *Three* Times successively within the last *Seven* Years been proposed to be made therein, and that the making of such Rate therein has on all of those Occasions been rejected upon a Poll of the Parishioners thereof duly taken on the Question, shall be exempt from the Church Charge created by this Act, and no Lands, Houses, or Tenements in any such Parish shall be or become liable to such Charge.

Churchwardens of Parish claiming Exemption from Church Charges to give Notice to Clerk of the Peace, and apply to Sessions for Order allowing Exemption.

5. The Clerk of the Peace of every County shall within *Three* Months after the passing of this Act send to the Churchwardens of every Parish within the County a Copy of this Act, together with a printed Notice calling their Attention to the Provisions in this Act contained as to the Exemption of certain Parishes from the Church Charge created by this Act; and the Churchwardens of every Parish which claims to be, under the Provisions of this Act, exempt from Liability to Church Charge, shall, within *Two* Months after receiving such Copy and Notice, serve upon the said Clerk of the Peace a written Notice under their Hands, stating that they claim on behalf of

of their Parish to be exempt from all Liability on account of Church Charge, and that they intend, at the next General Quarter Sessions of the Peace for the said County which shall be holden not sooner than *Fourteen* clear Days after the Day of such Service, to produce sufficient Proof to establish that the Parish is exempt from such Church Charge, within the Terms and Meaning of this Act, and to claim an Allowance of Exemption; and the said Churchwardens shall, *Seven* clear Days at the least before such Session, affix to the Door of their Church, on a Sunday before the Commencement of Morning Service, a written Notice under their Hands, which shall be kept affixed to the said Door during the whole of the Week then next following, stating that they have served such Notice on the Clerk of the Peace; and the said Churchwardens shall at such Court of Quarter Sessions produce the Proof aforesaid, and the Court shall, at such Sessions or any Adjournment thereof, hear and examine the same, and if it shall be proved to the Satisfaction of the Court that the said Parish is entitled to such Exemption, the said Court shall make an Order allowing the same: Provided nevertheless, that it shall be lawful for the Incumbent of the said Parish, or for any other Person or Persons being Occupiers of Land within such Parish, who would, but for the passing of this Act, be entitled to attend and vote at Vestry Meetings for the making of Church Rates for the said Parish, to oppose the Allowance of such Claim on the Ground that the Proof alleged is insufficient to establish the Exemption, within the Meaning of this Act: Provided also, that the Costs of the Churchwardens, to be taxed by the Court, shall, if the Claim be allowed, or if the Court shall think it just or reasonable, be defrayed out of the Poor Rate, if a separate Poor Rate be made within the said Parish, and if not, by an equal Pound Rate, to be laid on the Occupiers of all Lands, Houses, and Tenements in the Parish liable to be assessed to the Poor Rate, and which Rate the Churchwardens are hereby authorized to make and levy, and enforce, if necessary, by Action in the County Court against any Person duly assessed who shall refuse to pay the Sum at which he is assessed; and the Costs of any Person or Persons who shall oppose the Allowance to be taxed by the Court, if it shall think fit to allow the same, shall, if the Claim be allowed, be defrayed in like Manner, and if it be disallowed, shall be and become a Charge upon the Church Charge of the said Parish, and shall be defrayed thereout: Provided also, that if any such Parish shall be situated partly within a County at large and partly within a City or Borough, being a County within the Meaning of this Act, it shall be sufficient for the Churchwardens to make and they are hereby required to make, their Application for an Allowance of the Claim of Exemption to the Quarter Sessions of the County at large; and the Clerk of the Peace of the said County shall forthwith, after

the Decision of the Court of Quarter Sessions, transmit a Copy of the Order of the Court, certified under his Hand, to the Town Clerk of the City or Borough; and in every Case a Copy of the Order made by the Court upon the Hearing of such Claim shall be transmitted by the Clerk of the Peace to the Churchwardens, and a Copy of the same shall be entered on the Vestry Minute Books of the Parish.

Order of Exemption may be cancelled, under certain Circumstances.

**6.** If at any Time after the making of any Order of Exemption as before mentioned, *One Fourth* of the rated Inhabitants of any Parish to which such Order of Exemption applies shall sign and deliver to the Churchwardens of such Parish a Notice in Writing requiring them to summon a Vestry Meeting of the Parish for the Purpose of considering whether a Memorial shall be adopted calling upon the Justices or Town Council, as the Case may be, to cancel the Order of Exemption then existing with respect to such Parish, the said Churchwardens shall, not sooner than *Four* Weeks nor later than *Six* Weeks after receiving such Requisition, summon a Vestry Meeting in conformity with the Terms of such Requisition; and if a Memorial to the Effect set forth in such Requisition shall be adopted by the Vestry so summoned as aforesaid, and if within *Fourteen* Days after the Day of the Adoption of such Memorial the same shall be signed by not less than *Two Thirds* of the Ratepayers of such Parish, the Churchwardens shall forthwith transmit the said Memorial to the Clerk of the Peace, and the Clerk of the Peace shall lay the same before the Justices assembled at the Quarter Sessions then next ensuing, or before the Town Council at its next Meeting (as the Circumstances of the Case may require); and if the said Justices or Town Council (as the Case may be) are satisfied that the said Memorial has been duly made and signed, in accordance with the Provisions of this Act, then the Order of Exemption made touching such Parish shall be forthwith cancelled, and be and remain thenceforth of none Effect, and the Clerk of the Peace shall forthwith notify the cancelling of such Order to the Governors of Queen Anne's Bounty.

Justices, when they make the First County Rate in the Year, to add the Church Charge, and issue Precepts according to the Form in the Schedule to Act.

**7.** Whenever the Justices of the Peace or the Town Council proceed for the First Time in any Year after the *Thirty-first* Day of *March* next to make a County Rate, the Precepts which they shall issue for the Collection of such Rate shall include and require the Collection of the Church Charge in all Parishes liable to such Church Charge within their County; and such Precept shall be in the Form as near as may be in the Schedule to this Act.

If no County Rate made before 30th June,

**8.** Provided always, That if it shall happen in any Year that no County Rate shall have been made for any County prior to the *Thirtieth* Day of *June*, the Clerk of the Peace for that County shall, before

before the *Twenty-first* Day of *July* in that Year, and without any other Authority than this Act, issue Precepts for the Collection of the Church Charge only, in like Manner and to the same Persons as for the Collection of a County Rate; and such Precepts shall be in the Form as near as may be in the Schedule to this Act.

Clerk of the Peace to issue Precepts before 21st July for Collection of Church Charge only.

**9.** All Guardians, Overseers of the Poor, and other Persons by Law liable to assist in the Collection of a County Rate in any County shall in like Manner assist in the Collection of the Church Charge, and shall collect the same with and as Part of the County Rate to which such Charge has been added, or separately if such Charge has not been added to a County Rate: Provided always, that a separate Receipt for the Church Charge shall be given to every Occupier: And all Churchwardens and other Persons having the Custody of Church Rate Books and other Documents relating to the Church Rate shall render all necessary and reasonable Assistance to all Persons lawfully engaged in the Collection of the Church Charge.

Guardians, Overseers, &c. to assist in Collection of Church Charge. Separate Receipts to be given for Church Charge. Churchwardens, &c. to render necessary and reasonable Assistance.

**10.** Every Occupier of Land, House, or Tenement assessed to the Church Charge, being Tenant of the same Land, House, or Tenement, who shall have paid the Sum charged upon such Land, House, or Tenement, shall be entitled to deduct the Amount so paid by him in respect to the Rent payable to the Landlord for the Time being, which Deduction shall be made out of the first Payment thereafter to be made on account of Rent, in like Manner as he is entitled to deduct the Amount paid by way of Property Tax under Schedule (A.) of "The Property and Income Tax Act, 1842;" and all Landlords, both mediate and immediate, their respective Heirs, Executors, Administrators, and Assigns, according to their respective Interests, and their respective Receivers or Agents, shall allow such Deduction, upon the Receipt of the Residue of the Rent, under the same Penalty as that under which the Landlord and others entitled to the Receipt of the Rent of Property assessed to the Property Tax under Schedule (A.) of the said Act are bound to allow the Deduction provided for by that Act, which Penalty shall in all respects be recovered and recoverable in the same Manner as the Penalty given by that Act.

Tenants may deduct Church Charge from Rent, and Landlords bound to allow the Deduction.

**11.** The Landlord of any Land under Lease for a Term of Years, the Occupier whereof shall have contracted to pay and discharge all Rates and Dues payable in respect of such Land, shall, in the Event of any Occupier thereof deducting from the Rent thereof any Sum on account of Church Charge as aforesaid, be entitled to add any Sum, not being larger than the Sum deducted by such Occupier, to the Rent under such Lease due from such Occupier for the ensuing Year, and such Addition to the Rent shall be held and deemed to be in all respects

Power to Landlord to add a Sum equal to that deducted on account of Church Charge to the Rent.

respects Part thereof under such Lease: Provided nevertheless, that such Landlord shall not be entitled to make such Addition to such Rent, unless he shall have delivered a Notice in Writing to such Tenant, stating his Intention to make such Addition, within *One Calendar Month* after such Occupier shall have made such Deduction.

Remedies for enforcing Payment of County Rate may be exercised for enforcing Payment of Church Charge against Occupier, Owner, or mesne Tenant, his Goods, &c.

**12.** All Remedies and Modes of Proceeding by which the Justices of the Peace for any County, or the Town Council of any City or Borough, being a County within the Meaning of this Act, or any Guardian or Overseer of the Poor of any Union or Parish, or any Person acting under them or by their Authority, can enforce Payment of a County Rate for any Lands against any Person liable to pay the same, or against the Goods, Chattels, and Effects of such Person, may be exercised by such Justices of the Peace, Town Council, Guardians, Overseers, or Persons against any Person liable to pay the Church Charge for such Land, whether as Occupier, Owner, or any mesne Landlord, and against the Goods, Chattels, and Effects of such Person.

County Treasurer to pay over Monies for Church Charge to Treasurer of Queen Anne's Bounty, on Demand. Governors to have same Powers for enforcing Payment as the Justices or Town Council, or may recover by any Action at Law.

**13.** Every County Treasurer shall, on or before the *First Day of January* in every Year, pay over to the Treasurer of the Governors of Queen Anne's Bounty, or as he shall appoint, all Monies received by him on account of the Church Charge in respect of every Parish liable thereto within the County, distinguishing the Amount paid in respect of each such Parish; and such Governors shall be entitled to the same Rights and Remedies against any County Treasurer, and against his Estate, Goods, Chattels, and Effects, for recovering and enforcing Payment of any Monies for Church Charge received and not paid over by him, pursuant to the Provisions of this Act, as the Justices or Town Council of the County of which he is Treasurer have for the recovering of any Moneys in his Hands on account of the County Rate; and the said Governors may, but without Prejudice to such other Remedies as aforesaid, recover the Amount of such Church Charge by Action of Debt or on the Case in any of the Superior Courts.

County Treasurer to serve written Notice of Amount paid by him to Queen Anne's Bounty to Churchwardens.

**14.** The County Treasurer shall, within *One Week* after Payment by him of the Church Charge to the Treasurer of the Governors of Queen Anne's Bounty, give written Notice to the Churchwardens of every Parish on account of which he shall have made any such Payment of the Amount paid on account of their Parish.

Churchwardens to transmit Notices of

**15.** The Churchwardens of every Parish shall, within *Twenty-one* Days after the Service of such Notices upon them, transmit to the Governors of Queen's Anne Bounty a written Notice under their Hands,

Hands, stating the Amount to which they claim to be entitled on behalf of their said Parish out of the Church Charge of every such Parish respectively; and every Signature to such Notice shall be attested by a Justice of the Peace acting for the said County.

the Amount of Church Charge advised to Governors of Queen Anne's Bounty.

**16.** The Governors of Queen Anne's Bounty may appoint a separate Clerk or Secretary, and a separate Treasurer, for the Purposes of this Act; but the same Person shall not be eligible for nor hold the Office of Clerk or Secretary and Treasurer at the same Time; and the Governors may fix the Salaries for such Clerk or Secretary and Treasurer, and may also appoint, at such Salaries or for such Wages as they may think fit, all necessary and proper Officers and Servants, and may from Time to Time remove any such Clerk or Secretary, Treasurer, or other Officer or Servant, and may also provide separate Offices for the Purposes of this Act, and all Things necessary or proper for carrying this Act into execution.

Governors may appoint a separate Clerk and Treasurer, not being the same Person, and other Officers, and provide separate Offices and all Things necessary for Purposes of Act.

**17.** The Governors of Queen Anne's Bounty shall, out of the Monies so received, pay their Expenses incurred under this Act, and shall divide the Residue amongst the Parishes which have contributed such Monies, rateably in the Proportions in which they have respectively contributed the same, and shall, within *One Month* after the Transmission to them of such Claim as aforesaid, transmit the Amount to which each such Parish is entitled to the Churchwardens of such Parish, to be by them paid and applied as the Church Rates of such Parish would or might have been payable and applicable if this Act had not passed.

Out of Monies received, Governors to pay their Expenses, and divide Residue amongst Ecclesiastical Parishes contributing.

**18.** The Incumbent and Churchwardens of any Parish shall not lay out any Part of the Sum so transmitted to them until they shall have submitted to the Parishioners in Vestry assembled an Account of the Receipts and Expenditure in respect of the Church Charge for the previous Year, and of the Sum so transmitted to them, and of the Sums proposed to be expended, and the Items of such Expenditure, and the Parishioners in Vestry shall have consented to such proposed Expenditure; and if within *One Week* after such Consent of the Vestry any Owner of Land, House, or Tenement in the Parish liable to the Church Charge shall appeal against such proposed Expenditure or any Part thereof, to the Governors of Queen Anne's Bounty, and shall give Notice in Writing of such Appeal to the Churchwardens, the Churchwardens shall not lay out any Part of the Sum so transmitted to them, in the Manner objected to, until the Governors of Queen Anne's Bounty shall have allowed such Expenditure or the Objection shall have been withdrawn.

Before expending Church Charge, Churchwardens to account to Vestry, to have their Approval, and if Owners appeal to Queen Anne's Bounty, Appeal to be first decided.

When yearly Sums shall exceed the Amount required, Surplus may be retained by Churchwardens, &c.

**19.** In case the Sum paid by the Governors of Queen Anne's Bounty for any Parish shall in any Year or Years exceed the Amount which the Churchwardens shall require for the Purposes aforesaid, the Surplus shall be retained by the Churchwardens, and applied by them to the Purposes aforesaid in subsequent Years: Provided nevertheless, that when such Surplus shall have accumulated in any Parish so as to amount to a Sum equal to the Amount of *Two* entire Years of the Church Charge accruing within such Parish, the same shall be returned by the Churchwardens to the Governors of Queen Anne's Bounty, who shall invest the same in the Three per Centum Consolidated Bank Annuities, by way of Addition to the Funds (if any) already provided for the Purposes of such Parish.

Governors to invest Surplus to Credit of Parish, and may expend it in unforeseen or extraordinary Repairs, &c.

**20.** The Governors of Queen Anne's Bounty shall keep an Account of all Monies so received, and invested to the Credit of the Parish, and in the event of any extraordinary Repairs becoming required for any Church of the said Parish, which but for the passing of this Act such Parish might have repaired by a Church Rate, or if it shall become necessary or expedient to rebuild, enlarge, or otherwise increase the Accommodation of any such Church, shall sell out the whole or any Part of such funded Surplus, and pay the Proceeds thereof to the Churchwardens of such Parish, to be by them expended and applied for such Purpose or Purposes; and a Resolution of a Vestry duly summoned to consider such Application shall be sufficient Warrant and Authority to the said Governors to sell out and pay over such Monies.

Incumbent and Churchwardens to be a Corporation for receiving Grants and Gifts of Land, &c., and applying Income to same Purposes as Church Charge, &c.

**21.** In every Parish the Rector, Vicar, or other Person holding the Incumbency, and the Churchwardens for the Time being, are hereby declared to constitute and be a Body Corporate, with perpetual Succession, by the Name of "The Incumbent and Churchwardens of the Parish of [ ]," for the Purpose of receiving Grants and Gifts of Lands, Buildings, and Rentcharges in Fee Simple, and Sums of Stock in the Three Pounds per Centum Consolidated Bank Annuities, upon trust to apply the net annual Income derivable therefrom for the same Purposes as the Church Charge for such Parish.

Trustees may transfer to Governors any Rentcharges, &c. vested for the Purpose of Church Charges.

**22.** It shall be lawful for any Trustees in whom any Rentcharge, or any Monies or Funds, or any Lands, now are or hereafter may be vested, for the Purpose of applying the same in Relief of the Church Charge of any Parish, to convey and transfer such Lands, Rentcharge, Monies, or Funds to the Governors of Queen Anne's Bounty for the Purposes aforesaid, or, with the Consent of such Governors, testified under their Common Seal, to convey and transfer such

such Lands, Rentcharges, Monies, or Funds to the Incumbent and Churchwardens of the Parish for the Purposes aforesaid, or to make Sale of and convey such Lands to any Purchaser, and to invest the Purchase Money in the Three per Centum Consolidated Bank Annuities, in the Names of the Governors of Queen Anne's Bounty, for the Purposes aforesaid, or, with such Consent as aforesaid, in the Names of the Incumbent and Churchwardens of the said Parish, for the Purposes aforesaid, and the Execution by the Governors of the Queen Anne's Bounty of the Deed of Conveyance shall be conclusive Evidence that such Sale is effected for the Purposes of and is made valid and effectual by this Act, and that the Purchase Money has been duly applied for the Purposes aforesaid; and upon such Conveyance, Transfer, or Sale as aforesaid all Powers, Duties, and Liabilities of such Trustees in respect of such Rentcharges, Monies, Funds, or Land shall absolutely cease, except as to past Transactions.

Governors of Queen Anne's Bounty may by Award direct Church Charge to cease if Income applicable to Church Charge equal Church Charge.

**23.** It shall be lawful for the Governors of Queen Anne's Bounty, whenever the net annual Income applicable to the Purposes of the Church Charge in any Parish, from all or any of the Sources aforesaid, or from all or any of such Sources together with any yearly Sum secured to them to their Satisfaction in manner herein-after mentioned for such Purpose, or from such yearly Sum alone, shall in their Judgment be equal to the Church Charge for the Parish, or to such smaller Amount as will in the Opinion of the said Governors be sufficient to meet the ordinary Expenditure required for the Purposes to which the Church Charge is applicable, by an Award under their Common Seal to declare that no Church Charge shall thenceforth be raised for such Parish; and after the Execution of such Award, and the same shall have been deposited with the Clerk of the Peace as hereafter directed, no Church Charge shall be raised for such Parish: Provided always, that *Two* Months at least before the proposed Execution of the Award a Copy thereof shall be transmitted to the Churchwardens of the Parish, and be open to the Inspection of all Parties interested therein; and Notice of the Intention to make such Award, specifying the net annual Income applicable to the same Purposes as the Church Charge in respect whereof such Award is to be made, and the Sources from which such Income is derived, shall be fixed on the Door of the Parish Church; and if within the said *Two* Months any Parishioner entitled to vote in Vestry, or any Owner of Land, House, or Tenement in the Parish liable to the Church Charge shall appeal against the making of the Award to one of the Superior Courts of Record at Westminster, the Award shall not be executed until the Appeal shall have been disallowed, set aside, or abandoned.

Award to be deposited with Clerk of Peace.

**24.** The Award, when executed, shall be deposited with the Clerk of the Peace of the County, and shall be open to public Inspection at

at all reasonable Times, on Payment of a Fee of *One Shilling;* and a Copy thereof shall be entered on the Vestry Minutes of the Parish.

How yearly Sums to be secured to Governors of Queen Anne's Bounty.

**25.** No Sum shall be deemed to be a yearly Sum secured to the Governors of Queen Anne's Bounty within the Meaning of this Act that shall not consist of Dividends upon Stock in the Three per Centum Consolidated Bank Annuities, or of Rentcharges in Fee issuing out of Freehold Land.

Rentcharges may be granted by Corporations, &c.

**26.** Rentcharges may be granted for the Purposes aforesaid by Corporations, and by Tenants for Life or in Tail, in Possession or Receipt of the Rents and Profits of the Lands out of which the Rentcharges are to issue, as well as by the Persons absolutely entitled to such Lands; but no such Rentcharge by a Corporation Sole or by a Tenant for Life or in Tail shall have any Effect except as against the Person by whom the same was granted until it has been approved of by the Court of Chancery; and all Rentcharges so granted and approved of shall be binding, not only on the original Grantors but upon all Persons entitled in succession, remainder, reversion, or expectancy after them, or in Defeasance of their Estates.

Governors may release any Rentcharge.

**27.** It shall be lawful for the Governors of Queen Anne's Bounty, if they shall think fit, to release any Rentcharge granted or transferred to them, or to the Incumbent and Churchwardens of any Parish, with such Consent as aforesaid, in consideration of the Transfer into their Names, or the Name of the Incumbent and Churchwardens of the Parish, of a Sum in the Three per Centum Consolidated Bank Annuities producing Dividends equal in Amount to such Rentcharge, and also, if they shall think fit, to release any Part or Parts of the Lands out of which any such Rentcharge is issuing from the Payment thereof, without any Consideration, provided the Residue of such Lands shall in their Judgment be sufficient Security for such Rentcharge, and in such Case the Rentcharge shall be wholly chargeable on and issuing out of such Residue of the Lands: Provided always, that no such partial Release shall be made except with the Concurrence of the Person or Persons entitled for such an Estate as would enable him to grant a Rentcharge under this Act to the Lands remaining charged, but in such Cases the Consent of the Court of Chancery to such Concurrence by a Guardian shall not be necessary.

Interpretation.

**28.** In construing this Act the following Words and Expressions shall have the Meanings hereby assigned them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say),

The Word "Person" shall include "Corporation," whether aggregate or sole:

The

The Word "County" shall mean and include any Riding or Division having a separate Commission of the Peace or separate County Treasurer, and any City, Borough, Liberty, Franchise, or other Place in which Borough Rates, or Rates in the Nature of County Rates (not being Borough Rates), may be levied, having a separate Commission of the Peace, and not subject to the Jurisdiction of the County or Counties at large in which such City, Borough, Liberty, Franchise, or Place may lie, nor contributing or paying to the County Rates made for such County or Counties at large: County.

The Word "Land" shall include Tenement, Hereditament, or Property of any Description which in a County is rateable to a County Rate, and in a City or Borough is rateable to a Borough Rate: Land.

The Word "Owner" shall mean the Person or Persons in the actual Possession or Receipt of the Rents and Profits of any Land: Owner.

The Words "Governors of Queen Anne's Bounty" shall mean "the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy;" Governors of Queen Anne's Bounty.

The Words "Clerk of the Peace" shall mean and include the Town Clerk of any City or Borough being a County within the Meaning of this Act, and with reference to any County in which there is no Clerk of the Peace shall mean the Person who discharges the Office or performs the Duties of a Clerk of the Peace, and with reference to any City or Borough as aforesaid in which there is no Town Clerk shall mean the Person who discharges the Office or performs the Duties of Town Clerk: Clerk of the Peace.

The Expression "County Rate" shall extend to and include the Borough Rate in any City or Borough being a County within the Meaning of this Act: County Rate.

The Expression "County Treasurer" shall extend to and include the Treasurer of any City or Borough being a County within the Meaning of this Act: County Treasurer.

The Word "Parish" shall include every District which but for the the passing of this Act would be able to make and levy a Church Rate, whether the same be a Parish, separate and distinct Parish, District Parish, new Parish, Ecclesiastical District, or other Ecclesiastical Division: Parish.

The Word "Church" shall include Chapel: Church.

The Word "Churchwardens" shall include Chapelwardens: Churchwardens.

The Words "Overseers of the Poor" shall include Churchwardens, being ex-officio Overseers of the Poor. Overseers of the Poor.

28. This Act may be cited as "The Church Charge Act, 1862." Short Title.

## SCHEDULE to which the foregoing Act refers.

FORM OF PRECEPT FOR COLLECTING COUNTY RATE AND CHURCH CHARGE.

County of to wit.

To the Guardians of the Union.

THESE are to require you, the Guardians of the Union, from and out of the Monies paid into the Hands of the Treasurer of your Union for the Uses and Purposes of the said Union, to pay or cause to be paid, on or before the Day of into the Hands of *A.B.*, Treasurer of the said County, appointed to receive the same, the Sum of £ being the Amount of the several and respective Sums of Money hereunder set down and expressed opposite to and against the Names of the several Parishes, Townships, or Places comprised within your said Union, the said several Sums being respectively charged and assessed thereon as the Proportion of the several Parishes, Townships, or Places towards the General County Rate, at in the Pound, made at the last Quarter Sessions (or General Sessions) of the Peace held at in and for the said County, together with the Amount of the several and respective Sums of Money hereunder set down and expressed opposite to and against the Names of the same Parishes, Townships, or Places, or some of them, being the Amount of Church Charge for the Year in each such Parish, Township, or Place.

(*Signature of the Clerk of the Peace.*)

| Names of Parishes. | County Rate at in the Pound. | | | Church Charge at Twopence in the Pound. | | |
|---|---|---|---|---|---|---|
| | £ | *s.* | *d.* | £ | *s.* | *d.* |
| Whiteacre - - - - | 500 | 1 | 3 | 50 | 0 | 4 |
| Blackacre - - - - | 100 | 0 | 0 | 10 | 0 | 0 |
| Redacre - - - - - - | 340 | 1 | 9 | 23 | 2 | 2 |

*N.B.*—This Form may be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.

FORM

FORM OF PRECEPT FOR CHURCH CHARGE ONLY.

County of to wit.

To the Guardians of Union.

THESE are to require you, the Guardians of Union, from and out of the Monies paid into the Hands of the Treasurer of your Union for the Uses and Purposes of the said Union, to pay or cause to be paid, on or before the Day of into the Hands of *A.B.*, Treasurer of the said County, appointed to receive the same, the Sum of £ being the Amount of the several and respective Sums of Money hereunder set down and expressed opposite to and against the Names of the several Parishes, Townships, or Places comprised within your said Union, being the Amount of Church Charge for the Year in each such Parish, Township, or Place.

(*Signature of the Clerk of the Peace.*)

| Names of Parishes. | Church Charge at Twopence in the Pound. |
|---|---|
| | |

*N.B.*—This Form may be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.

FORM OF RETURN OF CHURCH CHARGE BY GUARDIANS OF UNION.

| Names of Townships. | Names of Parishes. | Amount of Church Charge. |
|---|---|---|
| | | £ *s.* *d.* |
| Whiteacre - - - | Whitacre - - - | 50 0 0 |
| Blackacre - - - | Dovedale - - - | 3 0 0 |
| Blueacre - - - | | |

*N.B.*—This Form may be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.

# Church Rates Commutation.

A

# BILL

To establish a Charge in lieu of Church Rates, for the Commutation thereof, and to afford Facilities for the Provision of other Funds applicable to the Purposes of Church Rates.

*(Prepared and brought in by Mr. Newdegate and Lord Robert Montague.)*

*Ordered, by* The House of Commons, *to be Printed,* 14 *February* 1862.

[Bill 13.]

*Under* 2 *oz.*

(No. 2.)

A

# B I L L

TO

## Establish a Charge instead of Church Rates, for the Commutation thereof, and to afford Facilities for the Provision of other Funds applicable to the Purposes of Church Rates.

Preamble.

WHEREAS Church Rates have for some Years ceased to be made in certain Parishes, and in other Parishes where Church Rates have been made the levying thereof has given rise to Ill-feeling and Litigation: And whereas it is expedient that an annual Charge upon Property should be levied in lieu of Church Rates, and that Provision should be made for the Commutation of such Charge, and for the Reception, holding in trust, and due Application of Benefactions and voluntary Contributions for the Purposes of Church Rates and instead thereof:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

*Preliminary.*

Short Title.

**1.** This Act may be cited as The Church Rates Commutation Act, 1863.

Extent.

**2.** This Act shall extend to England only.

Interpretation.

**3.** In this Act—

The Term "Parish" shall mean any Place or District for which a separate Church Rate might be made if this Act had not been passed, whether a Parish, District Parish, Ecclesiastical District, or other Ecclesiastical Division:

The Term "the Quarter Sessions" shall mean such Court of General or Quarter Sessions as has Jurisdiction over the Parish or Part of the Parish affected by any Provision of this Act in which that Term is used:

The Terms "Clerk of the Peace" and "Town Clerk" respectively shall include any Officer or Person who discharges the Duties of Clerk of the Peace or Town Clerk where there is no such Officer as Clerk of the Peace or Town Clerk, and shall mean the Clerk of the Peace, Town Clerk, or other such Officer or Person as aforesaid of or acting for the County, Borough, or Place for which the Quarter Sessions are held:

The Terms "Church" and "Churchwarden" shall include Chapel and Chapelwarden:

The Term "Owner of Property" shall, with respect to Land, mean the Person who is for the Time being entitled to receive the Rackrent from the Occupier thereof, or who, if such Land were let to a Tenant at Rackrent, would for the Time being be entitled to the Receipt thereof:

The Term "Ratepayer" shall mean a Person assessed to Rates for Relief of the Poor.

Mode of publishing Notices by Churchwardens.

**4.** Where Churchwardens are required by this Act to publish any Notice, Account, or other Thing, they shall fix the same, in Writing or Print, or partly in Writing and partly in Print, under their Hands, on or near the principal Door of the Church of the Parish, and shall keep the same so fixed for the whole of the following *Month*, and also shall procure the same to be inserted once at least during such *Month* in some Newspaper printed or circulating in the Parish.

Mode of making Special Order of Vestry.

**5.** Any Special Order made by a Vestry under this Act shall be made as follows:—The Churchwardens shall publish a Notice of the intended Meeting of the Vestry and of the Object thereof; the Resolution of the Vestry agreed to at such Meeting shall be confirmed at a subsequent Meeting held not sooner than *One Month* and not later than *Two Months* thereafter; the Churchwardens shall publish a Notice of such intended subsequent Meeting, and of the Object thereof, and shall advertise such Notice, once at least in each *Fortnight* intervening between the Two Meetings, in some Newspaper printed or circulating in the Parish.

*Establishment*

*Establishment of Church Charge.*

Church Charge at 2*d.* in the Pound in lieu of Church Rates.

**6.** All Property in respect of the Occupation whereof the Occupier would, if this Act had not been passed, be liable to be assessed to Church Rates in any Parish, shall be subject to an annual Charge after the uniform Rate of *Twopence* for every Pound Sterling of the rateable Value thereof, according to the Valuation of Property in the Parish for the Purpose of Rates for Relief of the Poor. Such Charge shall be called the Church Charge, and shall be in substitution for Church Rates, and shall be applicable for the Purposes for which Church Rates are now by Law applicable.

*Assessment of Church Charge.*

Churchwardens to make and publish Schedule for Assessment of Church Charge for the present Year.

**7.** Forthwith after the passing of this Act, the Churchwardens of every Parish shall proceed to make out a Schedule showing all the Property subject to the Church Charge for the Parish, the Names of all Persons liable to pay the same, the Amount for which each is liable, and the total Amount of the Church Charge for the Parish. Such Schedule shall be, as nearly as may be, in the Form set forth in the Schedule to this Act. The Churchwardens shall complete such Schedule within *Three Months* after the passing of this Act, and forthwith on Completion thereof shall publish the same, together with a Notice, stating that any Person dissatisfied with the Assessment therein contained may appeal against the same in like Manner as an Appeal may be made by any Person against a Rate for Relief of the Poor.

Similar Schedule to be made yearly.

**8.** The Churchwardens in every Parish shall yearly on or before the *First Day of November* make out a like Schedule, and publish the same, together with a like Notice.

Penalty on wilful Omission, &c. by Churchwarden.

**9.** If any Churchwarden wilfully omit to include any Property or Person in any such Schedule, or if any Churchwarden make in any such Schedule a Statement of anything by this Act required to be stated therein, knowing the same to be false in any material Particular, he shall be liable to a Penalty of not more than *Five Pounds*, to be recovered in a summary Way before Two Justices of the Peace.

Appeal as in case of Poor Rate.

**10.** All statutory and other Provisions and Rules concerning an Appeal against a Rate for Relief of the Poor, and the affirming, quashing, or amending thereof, shall, as far as may be, extend and apply, mutatis mutandis, to the Church Charge, and to an Appeal against the same, and the affirming, quashing, or amending thereof.

Schedule to be sent to Clerk of Peace or Town Clerk.

**11.** The Churchwardens of every Parish shall deliver every such Schedule to the Clerk of the Justices of the Petty Sessions Division within

within which such Parish is, who shall within *Fourteen Days* after any Appeal is disposed of by such Justices in Special Sessions, or after the Time allowed for any such Appeal is expired, send the same (with any Amendment made therein on any Appeal to such Special Sessions) to the proper Clerk of the Peace or Town Clerk, as the Case may be.

*Collection of Church Charge.*

Precepts for Church Charge along with County or Borough Rate, or separately if no County or Borough Rate made.

**12.** Wherever, after *the Thirty-first Day of March One thousand eight hundred and sixty-four*, a County Rate, or Rate in the Nature of a County Rate, or a Borough Rate, is made for the first Time in any Year, the Precepts, Warrants, or other Instruments issued for the Collection thereof shall also comprise and direct the Collection of the Church Charge in the several Parishes or Parts of Parishes subject to such respective Rate, and according to the Assessments made for the several Parishes in manner aforesaid, for which Purpose the Schedules so made as aforesaid for the several Parishes shall be delivered together with such Precepts, Warrants, or other Instruments; but if in any Year no such Rate be made in any Case before the *Thirtieth Day of June*, then on or before the *Twenty-first Day of July* in that Year like Precepts, Warrants, or other proper Instruments shall be issued for the Collection of the Church Charge alone, such Schedules as aforesaid being in like Manner delivered therewith respectively. All Precepts so issued shall be in the Forms in the Schedule to this Act, or as near thereto as may be, and all Warrants and other Instruments so issued shall be in the like Forms, as nearly as the Nature and Circumstances of each Case will admit.

Provisions respecting County and Borough Rates applied to Church Charge.

**13.** All statutory and other Provisions and Rules concerning the Powers, Rights, Duties, Protection, and Liabilities of Guardians of Unions, Overseers of the Poor, County Treasurers, Treasurers of Boroughs, Justices of the Peace, and other Authorities and Persons, in relation to County Rates, Rates in the Nature of County Rates, and Borough Rates respectively, and the Collection, Payment, and Receipt thereof, and the Remedies for recovering or enforcing Payment of the same, shall, as far as may be, extend and apply, mutatis mutandis, to the Church Charge, and the Collection, Payment, and Receipt thereof, and the Remedies for recovering or enforcing Payment of the same.

Separate Acknowledgment for Church Charge.

**14.** A separate Acknowledgment of the Payment of the Church Charge shall in all Cases be given.

Deduction by Tenant of Church Charge from his Rent.

**15.** The Occupier of any Property, being Tenant thereof, and not being liable, as between himself and his Landlord, by virtue of any Deed or Writing, made or to be made, to pay Church Rates

or

or the Church Charge, either specifically, or as included in the general Description of Rates and Taxes, or otherwise, shall be entitled to deduct any Sum paid by him for the Church Charge out of his next following Payment of Rent, in like Manner as he deducts any Sum paid by him for Property Tax; and all Landlords, mediate and immediate, and their Receivers and Agents, and their Representatives and Assigns, according to their respective Interests, shall allow such Deduction, if claimed, upon Receipt of the Residue of the Rent, in like Manner as they allow the Deduction of any Sum paid for Property Tax; and the Tenant paying any Sum for Church Charge, and claiming such Deduction, shall be discharged of so much Money, as if the same had been actually paid to the Person to or for whom his Rent is due and payable.

[*See 5 & 6 Vict. c. 35. s. 60., No. IV., Ninth Rule.*]

*Administration of Church Charge.*

County and Borough Treasurer to send Money received to Queen Anne's Bounty.

**16.** Every County Treasurer or Treasurer of a Borough who receives any Money for Church Charge shall within *Fourteen Days* thereafter transmit the same to the Governors of Queen Anne's Bounty, distinguishing the Parishes for which the same has been received, and the Sum received for each Parish; and the said Governors shall on Receipt thereof place the Proportions thereof received for the several Parishes to the Credit of separate Accounts to be opened and kept by them in their Books with the Churchwardens of such several Parishes, and shall within *Fourteen Days* thereafter give Notice in Writing of such Receipt by them to the respective Churchwardens.

Churchwardens to draw on Queen Anne's Bounty.

**17.** The Churchwardens of each Parish may from Time to Time draw on the Governors of Queen Anne's Bounty (their Signatures to their Draft being attested by a Justice of the Peace having Jurisdiction in the Parish) for such Amount, not exceeding the Sum standing to their Credit in the Books of the said Governors, as may from Time to Time be required in the Parish for the Purposes for which the Church Charge is applicable, and the said Governors shall remit such Amount to the Churchwardens: Provided, that the said Governors shall not in any Year remit to the Churchwardens of any Parish a Sum or Sums exceeding the Amount of the then last Year's Produce of the Church Charge for such Parish, except on a Special Order of the Vestry of the Parish authorizing the Churchwardens to draw for a Sum or Sums exceeding such Amount.

Annual Accounts of Churchwardens.

**18.** The Churchwardens of each Parish shall annually lay before the Vestry an Account in Abstract of their Receipts and Payments for the past Year in respect of the Church Charge, having first published the same.

 **19.** Where

Regulation of Expenditure of Parish.

**19.** Where the Churchwardens of any Parish propose to expend any Money for the Purposes for which the Church Charge is applicable, the following Provisions shall take effect:

(1.) The Churchwardens shall publish and lay before the Vestry an Account showing for the past Year the Amount received by the Governors of Queen Anne's Bounty in respect of the Church Charge for the Parish, and the Amount thereof drawn by the Churchwardens, and the Expenditure of such Amount, and also a Statement of the Amount and Objects of the proposed Expenditure:

(2.) The Vestry may by Resolution authorize the proposed Expenditure:

(3.) Within *Fourteen Days* after the Meeting at which such Resolution is agreed to, any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appeal against the proposed Expenditure or any Part thereof to the Governors of Queen Anne's Bounty, stating in Writing the Grounds of his Appeal, and giving Notice thereof in Writing to the Churchwardens:

(4.) The said Governors shall, within *Two Months* after receiving the Appeal, hear and determine the same, stating in Writing their Approval or Disapproval of the proposed Expenditure or any Part thereof (with, in case of Disapproval, the Grounds thereof), and shall deliver such Statement to the Appellant, and a certified Copy thereof to the Churchwardens:

(5.) If the Appellant or the Vestry be dissatisfied with such Approval or Disapproval, he or they may, at any Time within *One Month* after the Delivery to him or them of such Statement or Copy, appeal against such Approval or Disapproval, on a Case stated in Writing by the Parties and approved by the said Governors, to the Lords Justices of the Court of Appeal in Chancery, who shall have Power to express and declare under their Hands a final Approval or Disapproval of such proposed Expenditure or any Part thereof, and, if they think fit, to obtain, at the Expense of the Parties or One of them, the Assistance of a Surveyor or other qualified Person to enable them to determine the Matter, and, if they think fit, to request the Advice and Assistance of the Archdeacon having Authority in the Parish, and also shall have Power to allow to either Party such Sum for Costs as may seem just, and for that Purpose to require either Party to give such Security for Costs as they may think fit:

(6.) The Churchwardens shall not proceed with the proposed Expenditure or the Part thereof appealed against, pending any such Appeal, or after any such Disapproval.

**20.** As

Investments by Queen Anne's Bounty for Benefit of Parish.

**20.** As often as there shall be standing for *Two Months* to the Credit of the Churchwardens of any Parish in the Books of the Governors of Queen Anne's Bounty under this Act a Sum of Cash exceeding *Fifty Pounds*, the said Governors shall, at the End of such *Two Months*, invest Money equal to such Sum of Cash in their own Names in some of the Public Stocks or Funds, for the Benefit of the Parish, and shall place the Income to arise from such Investment to the Credit of the Churchwardens of the Parish. Such Income and the Proceeds of any Sale from Time to Time made of any such Stocks or Funds (which Sale the said Governors may from Time to Time make as Occasion may require) shall be dealt with in like Manner as the Money received by the said Governors on account of the Church Charge for the Parish.

Accounts of Queen Anne's Bounty to be sent to Parishes.

**21.** The Governors of Queen Anne's Bounty shall send to the Churchwardens of the Parishes having Accounts in their Books under this Act Statements of their respective Accounts, in such Rotation that the Churchwardens of every Parish shall receive such a Statement once at least in every *Five Years*. The Churchwardens of each Parish shall, as soon as may be, lay such Statement before the Vestry, having first published the same.

Rules and Arrangements of Queen Anne's Bounty.

**22.** The Governors of Queen Anne's Bounty shall from Time to Time frame General Rules for the due Execution of the Duties imposed on them by this Act, and, subject and according to such Rules—

(1.) Shall appoint Officers and Clerks, and provide Offices and Things, necessary or proper for the due Execution of such Duties:

(2.) Shall invest in their own Names in some of the Public Stocks or Funds such Sums of Money coming to their Hands under this Act as may not be required either for immediate Use or for Investment for the Benefit of any particular Parish, and as may be properly so invested:

(3.) Shall apply the Income to arise from such last-mentioned Investments in or towards defraying the Expenses incurred by them in the Execution of this Act:

(4.) Shall, so far as such last-mentioned Income may be insufficient for that Purpose, defray such Expenses out of the Money coming to their Hands under this Act for the Church Charge, in such Manner that those Expenses may be borne rateably by the several Parishes.

Constitution of Meetings of Governors of Queen

**23.** A Meeting of the Governors of Queen Anne's Bounty shall not be competent to act for any of the Purposes of this Act unless there

Anne's Bounty.

there be present at least *Two* Lay Governors, or to hear and determine any Appeal under this Act unless there be present at least *Two* of the following Persons, nor shall any such General Rules as aforesaid be valid unless they be made under the Hands of at least *Seven* of the Governors, including at least *Three* of the following Persons; namely, the Speaker of the House of Commons, a Member of the Judicial Committee of Her Majesty's Privy Council, the Lord Chief Justice, Lord Chief Baron, or other Judge of One of the Superior Courts of Law at Westminster, the Master of the Rolls, Her Majesty's Advocate, Attorney, or Solicitor General, or One of Her Majesty's Counsel learned in the Law.

Administrative Committee of Queen Anne's Bounty.

**24.** The Governors of Queen Anne's Bounty shall appoint for the Purposes of this Act an Administrative Committee to discharge such of the Duties imposed on the said Governors by this Act as may be referred to such Committee by any General Rules made under this Act. The Administrative Committee shall consist of *Twelve* Governors, of whom at least *Four* shall be Laymen; and *Five* Members of such Committee, of whom at least *Two* shall be Laymen, shall form a Quorum.

*Incorporation of Incumbent and Churchwardens.*

Incumbent and Churchwardens to be a Corporation for Purposes of this Act.

**25.** In every Parish the Incumbent and Churchwardens for the Time being shall be and are hereby, for the Purposes of this Act, incorporated by the Name of "The Incumbent and Churchwardens of the Parish of ," and by that Name shall be One Body Corporate, with perpetual Succession and a Common Seal, and with Power to take and hold, without any Licence, and to dispose of, Land and other Property for the Purposes and according to the Provisions of this Act.

*Discharge of particular Property from Church Charge.*

Power to Owner of Property to obtain Discharge thereof from Church Charge by Payment of Capital Value of Church Charge thereon or by Grant of Redemption Rentcharge.

**26.** Any Person having any Estate or Interest in any Property liable to the Church Charge in any Parish may obtain the Discharge of such Property from such Liability in manner following:

(1.) He may pay to the Governors of Queen Anne's Bounty a Sum of Money equal to the Capital Value of the Church Charge on such Property, estimated at *Thirty Years* Purchase of the annual Amount of such Church Charge at the Time of such Payment, such Sum to be placed by the said Governors to the Credit of the Account in their Books of the Churchwardens of the Parish; or

(2.) He may grant to the Incumbent and Churchwardens of the Parish a perpetual yearly Rentcharge, to be issuing out of

of Land of Freehold Tenure, equal to the annual Amount at the Time of such Grant of the Church Charge on the Property intended to be discharged, securing such Rentcharge to the Satisfaction of the Governors of Queen Anne's Bounty:

(3.) The said Governors, on Receipt of such Money, or on such Rentcharge being secured to their Satisfaction, as the Case may be, shall give to the Person making such Payment or Grant a Certificate under their Common Seal stating such Payment or Grant, and specifying the Property for the Discharge whereof it is made, and shall send a certified Copy of such Certificate to the Churchwardens of the Parish:

Every such Certificate shall, from a Time to be therein stated, effectually discharge the Property therein comprised from Liability to Church Charge.

Proceedings for obtaining Discharge where Property is in Settlement. 19 & 20 Vict. c. 120. 21 & 22 Vict. c. 77.

**27.** Where any Property liable to the Church Charge in any Parish is a Settled Estate within the Operation of the Settled Estates Act of 1856, the Discharge thereof from such Liability may be obtained in manner following:

(1.) The Court of Chancery, if it deem it proper and consistent with a due Regard to the Interests of all Parties entitled under the Settlement of such Estate, and subject to the Provisions and Restrictions contained in the last-mentioned Act, and any Act amending the same, as incorporated in this Act, may authorize the granting to the Incumbent and Churchwardens of the Parish of such a perpetual yearly Rentcharge as in the last preceding Section mentioned, to be issuing out of Land of Freehold Tenure forming Part of such Settled Estate, or out of Land of Freehold Tenure subject to the same Limitations as such Settled Estate, and to be secured to the Satisfaction of the Governors of Queen Anne's Bounty in such Manner as the Court may approve:

(2.) The Court shall direct what Person shall execute the Deed for granting and securing such Rentcharge, and every Deed executed according to such Direction shall have Effect as if the Settlement of the Land comprised in such Deed had contained a Power enabling such Person to grant and secure such a Rentcharge, and so as to operate (if necessary) by way of Revocation and Appointment of the Use or otherwise, as the Court may direct:

(3.) The following Provisions of the said Settled Estates Act, and any Provision amending the same or any of them, shall, as far as may be, extend and apply, mutatis mutandis,

to the Exercise by the Court of Chancery of the Power conferred by the present Provision, as if the same were here re-enacted; namely, Sections Sixteen, Seventeen, Nineteen, Twenty-two, Twenty-six to Thirty-one, both inclusive, Thirty-six to Forty-two, both inclusive, and Forty-four.

Release of Redemption Rentcharge in consideration of Transfer of equivalent Stock.

**28.** Where any such Rentcharge has been granted, the Incumbent and Churchwardens of the Parish may, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, release from such Rentcharge the Land out of which it issues, in consideration of the Transfer into the Names of the said Governors of a Sum in some of the Public Stocks or Funds producing permanently an Income equal to such Rentcharge. Any Sum so transferred shall be held by the said Governors for the Benefit of the Parish, and in discharge from Liability to Church Charge of the Property for Discharge whereof such Rentcharge was granted. On such Transfer the said Governors shall give a Certificate under their Common Seal, stating the same, and specifying the Property intended to be discharged, and shall send a certified Copy thereof to the Churchwardens of the Parish. Every such Certificate shall, from a Time to be therein stated, effectually discharge the Property therein comprised from Liability to Church Charge.

Partial Release of Land from Redemption Rentcharge.

**29.** Where a Rentcharge has been so granted, and any Person having any Estate or Interest in the Land out of which it issues is desirous of obtaining a Release of Part of such Land from the Rentcharge, the Incumbent and Churchwardens of the Parish may, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, without any Consideration, release any Part of such Land from the Rentcharge, so that the Residue of such Land be sufficient Security for the Rentcharge; and in every such Case the Rentcharge shall continue charged on and issuing out of such Residue of the same Land, with the same Validity and Effect as to such Residue as if such partial Release had not been made.

Release of Redemption Rentcharge where Land charged is in Settlement.

**30.** Provided always, That where such a Rentcharge has been granted under the Authority of the Court of Chancery, and the Land out of which it issues continues comprised in a Settlement, the Court of Chancery, if it deem it proper and consistent with a due Regard for the Interests of all Parties entitled under the Settlement, may authorize any such partial Release as aforesaid, subject and according, as nearly as may be, to the same Restrictions and Provisions as are herein-before contained respecting the granting of a Rentcharge, and the same shall have Effect accordingly; and in any such

such Case any such partial Release shall not be valid unless the Authority of the Court of Chancery be so first obtained.

*Benefactions for Relief of Parish from Church Charge.*

Power to any Person to grant or devise Property for Relief of Parish, under Restrictions. [*See 2 & 3 Ann. c. 11. s. 4. 43 Geo. 3. cc. 107, 108.*]

**31.** Any Person may, notwithstanding any Statute restraining Alienation in Mortmain or Dispositions for Charitable Uses, by Deed or Testamentary Writing grant, give, or appoint any Property to the Incumbent and Churchwardens of any Parish for any Estate or Interest for which he has Power to dispose thereof, to be held by such Incumbent and Churchwardens and their Successors in trust for or towards the Relief of the Parish from the Church Charge: Provided always, that nothing herein-before contained shall empower any Person so to give, grant, or appoint any Property for the Relief of more than One Parish, or to give, grant, or appoint any Property the Capital Value whereof exceeds the Value of the Church Charge for the Parish, estimated at *Thirty* Years Purchase of the average annual Produce thereof during the *Seven* Years next before such Gift, Grant, or Appointment taking effect; but so nevertheless that if the Capital Value of any Property intended to be given, granted, or appointed in pursuance of this Act be found to exceed the Limit aforesaid, such Gift, Grant, or Appointment shall be invalid under this Act for the Excess only, and the Court of Chancery may, on Petition in a summary Way, make Order for reducing the same to the Limit aforesaid.

Power for Trustees for Relief of Parish to transfer Property to Incumbent and Churchwardens.

**32.** Any Person who now holds or shall at any Time hereafter hold any Property in trust for the Relief of any Parish from Church Rates or the Church Charge may, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, transfer the same to the Incumbent and Churchwardens of the Parish and their Successors, to hold on the same Trusts; and thereupon all Powers, Rights, Duties, and Liabilities of such Person in relation to such Property shall cease, except as to past Transactions.

*Discontinuance of Church Charge in Parish.*

Award of Governors of Queen Anne's Bounty for Discontinuance of Church Charge.

**33.** Where it is made to appear to the Governors of Queen Anne's Bounty that the Property applicable for the Relief of any Parish from the Church Charge (not including any Rentcharge granted under this Act by any Person having an Estate or Interest in Property in order to obtain the Discharge of that particular Property from Liability to Church Charge) produces and will permanently produce an Income equal to the annual Sum leviable for the Church Charge in the Parish, or to such smaller annual Sum as is sufficient to meet the ordinary Expenditure of the Parish for the Purposes for

which the Church Charge is applicable, the following Provisions shall take effect:

(1.) The said Governors shall, by a Provisional Award under the Hand of their Secretary, declare that on Confirmation of that Award the levying of the Church Charge in the Parish shall cease, and shall forthwith send a certified Copy of such Provisional Award to the Churchwardens of the Parish, who shall forthwith publish the same:

(2.) Such Provisional Award shall not have any Effect until after the Expiration of *Two Months* from its Date, and until it is confirmed by the said Governors, and sealed with their Common Seal:

(3.) During such *Two Months* any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may send to the said Governors a Statement in Writing of any Objection on his Part to the Award:

(4.) The said Governors shall forthwith send a certified Copy of such Statement of Objection to the Churchwardens of the Parish, who shall forthwith publish the same:

(5.) The said Governors shall, within *One Month* after Receipt of such Statement of Objection, and having first given to the Objector and to the Churchwardens of the Parish at least *Fourteen Days* Notice of the Time when they will take the same into consideration, proceed to take the same into consideration, and to hear and determine the Objection, and in case the Objection be not sustained, then to confirm the Award, and seal the same with their Common Seal:

(6.) On Confirmation of the Award the said Governors shall forthwith send the same to the Churchwardens, who shall publish the same:

(7.) From and after the Confirmation of the Award the levying of the Church Charge in the Parish shall cease.

On Confirmation of Award, Rentcharges not in Nature of Benefactions to be released.

**34.** Where such an Award is made and confirmed for any Parish, and any Rentcharge granted under this Act by any Person having an Estate or Interest in Property in order to obtain the Discharge of that particular Property from Liability to Church Charge is subsisting at the Time of such Award being made and confirmed, the Incumbent and Churchwardens shall, under the Direction of the Governors of Queen Anne's Bounty, release from such Rentcharge the Land out of which it issues.

*Exemption of Parish from Church Charge.*

No Church Charge where

**35.** Nothing in this Act shall be taken to authorize the levying of the Church Charge in any Parish where Church Rate is not now by Law

Law leviable; and, notwithstanding anything herein-before contained, the Church Charge shall not be levied in any Parish so long as an Order of Exemption made as herein-after provided is in force for such Parish. Church Rate not leviable, or where Order of Exemption.

**36.** If at any Time within *Six Months* after the passing of this Act a Declaration be delivered to the Churchwardens of any Parish, signed by *Ten* Ratepayers of the Parish or by *One Fifth* of the Ratepayers (if *One Fifth* be less than *Ten*), stating either that no Church Rate has been made and levied in the Parish within the *Seven* Years next before the passing of this Act, or that *Three* successive Times within such *Seven* Years a Proposal for the making of a Church Rate in the Parish has been rejected on a Poll duly taken, and that they desire to claim for the Parish Exemption from the Church Charge, the following Provisions shall take effect: Order of Exemption by Quarter Sessions, on Application of Parish.

(1.) The Vestry may by Special Order authorize an Application to the Quarter Sessions for an Order of Exemption:

(2.) The Churchwardens shall, within *One Month* after the Completion of the Special Order, send a certified Copy thereof to the Clerk of the Peace, who shall lay the same before the next Quarter Sessions held not sooner than *Two* Months after the Completion of the Special Order, of the Time of the holding whereof the Churchwardens shall publish Notice:

(3.) At such Sessions any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appear and apply for an Order exempting the Parish from Liability to the Church Charge, which Order the Court shall make, on Proof being given of no Church Rate having been made and levied within such *Seven* Years, or of such *Three* successive Rejections as aforesaid:

(4.) Any such Owner or Ratepayer may appear and oppose the Application for such Order.

*Revocation of Exemption.*

**37.** If at any Time after the making of such an Order of Exemption for any Parish a Declaration be delivered to the Churchwardens of the Parish, signed by *One Fourth* of the Ratepayers of the Parish, stating that they desire to obtain the Revocation of such Order, the following Provisions shall take effect: Memorial of Parish for Revocation of Exemption, and Order of Quarter Sessions thereon.

(1.) The Vestry may by Special Order adopt a Memorial to the Quarter Sessions for the Revocation of such Order:

(2.) If within *Fourteen Days* after such Adoption of a Memorial the same be signed by not less than *Two Thirds* of the Ratepayers of the Parish (but not otherwise) the Churchwardens

wardens shall forthwith send the same to the Clerk of the Peace, who shall lay the same before the next Quarter Sessions held not sooner than *Two Months* after the Receipt thereof by him, of the Time of the holding whereof the Churchwardens shall publish Notice:

(3.) At such Sessions any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appear and apply for an Order revoking the Order of Exemption, which Order of Revocation the Quarter Sessions shall make, on Proof of the Memorial having been duly adopted and signed as aforesaid:

(4.) Any such Owner or Ratepayer may appear and oppose the Application for such Order.

*Parish partly in County and partly in Borough.*

Case where Parts of Parish within Jurisdiction of different Quarter Sessions.

**38.** Where different Courts of Quarter Sessions have Jurisdiction within different Parts of the same Parish, that Court which has Jurisdiction over such Part of the Parish as contains the larger Number of the Ratepayers of the Parish shall, for the Purposes of any such Order of Exemption or of Revocation, have exclusive Jurisdiction over the whole Parish.

*Ecclesiastical Jurisdiction.*

No Ecclesiastical Jurisdiction over levying of Church Charge.

**39.** No Ecclesiastical Court or Officer shall have any Jurisdiction or Authority over or in respect of the levying of the Church Charge.

*Cessation of Church Rates.*

Church Rates to cease.

**40.** No Church Rate shall be made in any Parish after the *Thirty-first Day of December One thousand eight hundred and sixty-three.*

*Saving for Local Acts.*

Existing Regulations as to any particular Parish to remain in force. [*See last Proviso in 53 Geo. 3. c. 127. s. 7.*]

**41.** Where any local Provision made by Authority of Parliament is now in force respecting the making or levying of Church Rates in any particular Parish or Place, or the Application thereof, such Provision shall remain unaffected by this Act.

*General Savings.*

Pending Proceedings, and Cases whereMoney borrowed on Security of Church Rates.

**42.** Nothing in this Act shall affect—

(1.) Any Action, Suit, or Proceeding already commenced or to be commenced before the *First Day of January One thousand eight hundred and sixty-four* in any Court, Parish, or Place with respect to any Church Rate, or with respect to the Purposes

Purposes for which any Church Rate is applicable, or any Jurisdiction, Authority, or Power of any Court, Body, or Person relative to any such Action, Suit, or Proceeding:

(2.) Any Proceeding or Remedy for levying or recovering or enforcing Payment of any Church Rate already made or to be made before the *First Day of January One thousand eight hundred and sixty-four:*

(3.) The making or levying of any Church Rate in any Parish where any Money already borrowed or to be before the *First Day of January One thousand eight hundred and sixty-four* borrowed on the Security of the Church Rates of the Parish remains for the Time being due, or where any Money is for the Time being in any Manner charged on or payable out of the Church Rates of the Parish; and in every such Case, so long as any such Money remains legally so due, charged, or payable, and for the Purpose only of the Payment of Interest (if any) accruing due in respect of such Money, and the Repayment of the Principal of such Money, Church Rates may and shall be made and levied in such Parish as if this Act had not been passed.

# SCHEDULE.

FORM OF SCHEDULE FOR ASSESSMENT OF CHURCH CHARGE.

An Assessment of the Church Charge for the Parish of in the County of made this Day of One thousand eight hundred and after the Rate of Twopence in the Pound.

| No. | Name of Occupier. | Name of Owner. | Description of Property liable. | Name or Situation of Property. | Estimated Extent. | Rateable Value. | Church Charge at 2*d.* in the Pound. |
|---|---|---|---|---|---|---|---|
| | | | | | A. R. P. | £ *s.* *d.* | £ *s.* *d.* |
| 1 | James Smith - | John Green - | Land and Buildings | Whiteacre Farm - | 40 0 0 | 55 0 0 | 0 9 2 |
| 2 | Ditto - - | Ditto - - | House and Garden - | In West Street - | 0 1 0 | 25 0 0 | 0 4 2 |
| 3 | John Poor - - | Ditto - - | House - - | In Brick Lane - | - - - | 1 5 0 | 0 0 2½ |
| &c. | &c. | &c. | &c. | &c. | &c. | &c. | &c. |

*Declaration of Churchwardens.*

We, Thomas Jones and John Thomas, Churchwardens of the above-named Parish, do declare the several Particulars specified in the respective Columns of the above-written Schedule to be true and correct, so far as we have been able to ascertain them, to which End we have used our best Endeavours.

THOMAS JONES
JOHN THOMAS } Churchwardens.

FORM OF PRECEPT FOR COLLECTION OF CHURCH CHARGE TOGETHER WITH COUNTY RATE.

County of to wit.

To the Guardians of the Union.

THESE are to require you, the Guardians of the Union, from and out of the Moneys paid into the Hands of the Treasurer of your Union for the Purposes of your Union, to pay, on or before the Day of into the Hands of *A.B.*, Treasurer of the above-named County, appointed to receive the same, the Sum of £ being the Amount of the several Sums of Money hereunder set down opposite to the Names of the several Parishes, Townships, or Places comprised within your Union, the said several Sums being respectively charged and assessed thereon as the Proportion of the several Parishes, Townships, or Places towards the General County Rate, at in the Pound, made at the last Quarter Sessions (*or* General Sessions) of the Peace held at in and for the said County, together with the Amount of the several Sums of Money hereunder set down opposite to the Names of the same Parishes, Townships, or Places, or some of them, being the Amount of the Church Charge for the Year for each such Parish, Township, or Place, the Particulars for the Collection of which Church Charge in each such Parish, Township, or Place are set forth in the separate Schedule for each such Parish, Township, or Place herewith delivered to you.

(*Signature of the Clerk of the Peace.*)

| Names of Parishes. | County Rate at in the Pound. | | | Church Charge at Twopence in the Pound. | | |
|---|---|---|---|---|---|---|
| | £ | *s.* | *d.* | £ | *s.* | *d.* |
| Whiteacre - - - - | 500 | 1 | 3 | 50 | 0 | 4 |
| Blackacre - - - - | 100 | 0 | 0 | 10 | 0 | 0 |
| Redacre - - - - - | 340 | 1 | 9 | 23 | 2 | 2 |

[This Form is to be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.]

FORM OF PRECEPT FOR COLLECTION OF CHURCH CHARGE ALONE.

County of to wit.

To the Guardians of Union.

THESE are to require you, the Guardians of Union, from and out of the Moneys paid into the Hands of the Treasurer of your Union for the Purposes of your Union, to pay on or before the Day of into the Hands of *A.B.*, Treasurer of the above-named County, appointed to receive the same, the Sum of £ being the Amount of the several Sums of Money hereunder set down opposite to the Names of the several Parishes, Townships, or Places comprised within your Union, being the Amount of the Church Charge for the Year for each such Parish, Township, or Place, the Particulars for the Collection of which Church Charge in each such Parish, Township, or Place are set forth in the separate Schedule for each such Parish, Township, or Place herewith delivered to you.

(*Signature of the Clerk of the Peace.*)

| Names of Parishes. | Church Charge at Twopence in the Pound. |
|---|---|
| | |

[This Form is to be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.]

# Church Rates Commutation.

(No. 2.)

A

# B I L L

To establish a Charge instead of Church Rates, for the Commutation thereof, and to afford Facilities for the Provision of other Funds applicable to the Purposes of Church Rates.

(*Prepared and brought in by Mr. Newdegate and Lord Robert Montagu.*)

*Ordered, by* The House of Commons, *to be Printed,* 7 *August* 1862.

[Bill 254.]

*Under* 3 *oz.*

A

# BILL

FOR

## Voluntary Redemption of Church Rates.

WHEREAS it is expedient to provide Facilities for the voluntary Redemption of Church Rates in England: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** The Persons who from Time to Time are and shall be the Charity Commissioners for England and Wales shall be the Commissioners for carrying this Act into effect, and for that Purpose shall be a Corporation, and have perpetual Succession and a Common Seal, under the Name of "The Church Rate Redemption Commissioners," with Power to hold such Real Estate as herein-after mentioned. Charity Commissioners to be Commissioners for this Act.

**2.** The Inspectors, Clerks, Messengers, and other Officers of the said Charity Commissioners shall act under the Direction of the said Commissioners for the Purpose of carrying this Act into effect; and all reasonable travelling and other Expenses incurred by the said Commissioners and their Officers in the Discharge of their respective Offices under this Act shall be paid in the same Manner as is by Law provided with respect to the Expenses of the Charity Commissioners and their Officers. Inspectors, Clerks, &c. of the said Commissioners to act for the Purpose of carrying this Act into effect.

Commissioners, on having secured to them a yearly Sum sufficient for Payment of Expenses properly payable out of Church Rates of any Parish or District, may declare that no Church Rate shall be raised.

**3.** It shall be lawful for the said Commissioners, on having secured to them to their Satisfaction, in manner herein-after mentioned, such a yearly Sum as in their Judgment shall be sufficient for the Payment of the Expenses properly payable out of the Church Rates of any Parish or District having a separate Church Rate, by an Award under their Common Seal to declare that no Church Rate shall thenceforth be raised for such Parish or District, and after the Execution of such Award no Church Rate shall be raiseable in such Parish or District accordingly: Provided always, that no such Award shall affect the Security for any Sum of Money lawfully charged on the Church Rates of such Parish or District, and Church Rates shall or may still be made and levied for the Purposes of such Security until the whole Charge shall have been satisfied, as if no Award had been made.

How yearly Sums to be secured to Commissioners.

**4.** The yearly Sum to be secured to the said Commissioners for the Purposes aforesaid shall be secured to them either by the Investment in their Names of a Sum or Sums in the Three per Centum Consolidated Bank Annuities, or by the Grant of One or more Rentcharges in Fee issuing out of Freehold Lands.

Rentcharges may be granted by Corporations, &c.

**5.** Rentcharges may be granted for the Purposes aforesaid by Corporations, and by Tenants in Tail or for Life, in possession or receipt of the Rents and Profits of the Lands out of which the Rentcharges are to issue, as well as by Persons absolutely entitled to such Lands; and all Rentcharges so granted by Tenants in Tail or for Life shall be binding, not only on them and their Heirs, but also on all Persons entitled in remainder, reversion, or expectancy after them, or in Defeazance of their Estates.

Act not to affect 9 G. 2. c. 36., commonly called "Mortmain Act."

**6.** Nothing herein contained shall be deemed to alter or affect the Provisions of the Act of the Ninth Year of King George the Second, Chapter Thirty-six, commonly called "The Mortmain Act," and the Commissioners shall not make their Award as aforesaid until such a sufficient Time shall have elapsed after every Grant of Rentcharge or Gift of Stock that the same shall be no longer capable of becoming void under the said Act; and in case any such Grant or Gift as aforesaid shall become void, by reason of the Death of the Grantor or Donor within the Time mentioned in the said Statute, or otherwise, it shall be lawful for the said Commissioners, if they shall think fit, to release or re-transfer all the other Rentcharges and Sums of Stock contributed by any other Parties for the Purpose of effecting a Commutation of the Church Rate as aforesaid, to the Intent that all Parties may be restored, as nearly as may be, to their former Position, and the Attempt to effect such Commutation abandoned: Provided always,

always, that all Rentcharges, and the Dividends of any Stock, after the same shall have been granted or transferred to the said Commissioners as aforesaid, and before the Execution of their Award, shall be by them paid and applied in relief of the Church Rates intended to be commuted, but only for a Period not exceeding Two Years.

Notice of Commissioners Award to be fixed on Church Doors.

**7.** Notice of the Intention to make such Award as aforesaid, specifying the yearly Sum secured to the Commissioners in lieu of Church Rate, shall be fixed on the Door of the Parish or District Church at least *Two* Months before the Execution of the Award.

Award to be deposited with Clerk of the Peace.

**8.** The Award, when executed, shall be deposited with the Clerk of the Peace of the County, and shall be open to public Inspection at all reasonable Times, on Payment of a Fee of One Shilling.

Commissioners to pay yearly Sums secured to them to Churchwardens of Parish or District.

**9.** The Commissioners shall pay the yearly Sum secured to them as aforesaid by equal half-yearly Payments to the Churchwardens of the Parish or District, to be by them paid and applied as Church Rates would have been payable and applicable.

When yearly Sums shall exceed the Amount required, Surplus may be retained by Churchwardens, &c.

**10.** In case the yearly Sum secured to the Commissioners as aforesaid for any Parish or District shall in any Year or Years exceed the Amount which the Churchwardens shall require for the Purposes aforesaid, the Surplus may be retained by the Churchwardens, and applied by them to the Purposes aforesaid in subsequent Years: Provided nevertheless, that when such Surplus shall have accumulated so as to amount to the Sum of *One hundred Pounds*, the same shall be returned by the Churchwardens to the Commissioners, who shall invest the same in the Three per Centum Consolidated Bank Annuities, by way of Addition to the Funds or Rentcharge already provided for the Purposes of such Parish or District, but with Power at any Time thereafter, if they shall think fit, to sell out the whole or any Part of such funded Surplus, and pay the Proceeds to the Churchwardens for the Purposes aforesaid.

In estimating yearly Sum, Commissioners to allow for any Provision already existing in relief of the Church Rates.

**11.** In estimating the Amount of the yearly Sum to be provided by way of Redemption as aforesaid, the said Commissioners shall be at liberty to allow for any Provision already existing in relief of the Church Rates of the Parish or District at such Value as to them shall seem just and reasonable.

Trustees may transfer to Commissioners any Rent-

**12.** It shall be lawful for any Trustees in whom any Rentcharge, or any Moneys or Funds, or any Lands, now are or hereafter may be vested for the Purpose of applying the same in relief of the Church

charges, &c. vested for the Purpose of Church Rates.

Rates of any Parish or District, to convey and transfer such Rentcharge, Moneys, or Funds to the said Commissioners for the Purposes aforesaid, or to make Sale of and convey such Lands to any Purchaser, and to invest the Purchase Money in the Three per Centum Consolidated Bank Annuities in the Names of the said Commissioners for the Purposes aforesaid, and the Execution by the said Commissioners of the Deed of Conveyance shall be conclusive Evidence that such Sale is effected for the Purposes of and is made valid and effectual by this Act, and that the Purchase Money has been duly applied for the Purposes aforesaid; and upon such Conveyance, Transfer, or Sale as aforesaid all Powers, Duties, and Liabilities of such Trustees in respect of such Rentcharges, Moneys, Funds, or Land shall absolutely cease, except as to past Transactions.

Commissioners may release any such Rentcharges.

**13.** It shall be lawful for the Commissioners, if they shall think fit, to release any such Rentcharge granted or transferred to them as aforesaid, in consideration of the Transfer into their Names of a Sum in the Three per Centum Consolidated Bank Annuities producing Dividends equal in Amount to such Rentcharge, and also, if they shall think fit, to release any Part or Parts of the Lands out of which any such Rentcharge is issuing from the Payment thereof, without any Consideration, provided the Residue of such Lands shall in their Judgment be sufficient Security for such Rentcharge, and in such Case the Rentcharge shall be wholly chargeable on and issuing out of such Residue of the Lands: Provided always, that no such partial Release shall be made, except with the Concurrence of the Person entitled for such an Estate as would enable him to grant a Rentcharge under this Act out of the Lands remaining charged.

Extent of Act.

**14.** This Act shall extend to England only.

# Church Rates Redemption.

A

# BILL

FOR

Voluntary Redemption of Church Rates.

(*Prepared and brought in by*
*Mr. Alcock, Mr. Evans, and Mr. Dodson.*)

*Ordered, by* The House of Commons, *to be Printed,*
30 *June* 1862.

[Bill 177.]

*Under* 1 *oz.*

14 *February* 1862. 25 Vict.

A

# BILL

FOR

## The voluntary Commutation of Church Rates.

WHEREAS much Litigation arises out of the present State of Church Rates, and there is no Provision by Law to enable a Parish to raise a permanent Fund by voluntary Means in order to redeem its Liability to Church Rates, and to obtain a Discharge from all further Liability, except by the costly Process of obtaining a Special Act of Parliament: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** The Persons who from Time to Time are and shall be the Charity Commissioners for England and Wales shall be the Commissioners for carrying this Act into effect, and for that Purpose shall be a Corporation, and have perpetual Succession and a Common Seal, under the Name of "The Church Rate Commutation Commissioners," with Power to hold such Real Estate as herein-after mentioned. Charity Commissioners to be Commissioners for this Act.

**2.** It shall be lawful for the said Commissioners, on having secured to them to their Satisfaction such a yearly Sum as in their Judgment shall be sufficient for the Payment of the Expenses properly payable out of the Church Rates of any Parish or District having a separate Church Rate, by an Award under their Common Seal, to declare that Commissioners, on having secured to them a yearly Sum sufficient for Payment of Expenses properly payable out

of Church Rates of any Parish or District, may declare that no Church Rate shall be raised.

that no Church Rate shall thenceforth be raised for such Parish or District.

How yearly Sums to be secured to Commissioners.

**3.** The yearly Sum to be secured to the said Commissioners for the Purposes aforesaid shall be secured to them either by the Investment in their Names of a Sum or Sums in the Three per Centum Consolidated Bank Annuities, or by the Grant of One or more Rentcharges in Fee issuing out of Freehold Lands.

Commissioners may release any such Rentcharges.

**4.** It shall be lawful for the Commissioners, if they shall think fit, to release any Rentcharge granted or transferred to them, in consideration of the Transfer into their Names of a Sum in the Three per Centum Consolidated Bank Annuities producing Dividends equal in Amount to such Rentcharge, and also, if they shall think fit, to release any Part or Parts of the Lands out of which any such Rentcharge is issuing from the Payment thereof, without any Consideration, provided the Residue of such Lands shall in their Judgment be sufficient Security for such Rentcharge, and in such Case the Rentcharge shall be wholly chargeable on and issuing out of such Residue of the Lands.

Extent of Act.

**5.** This Act shall extend to England only.

# Church Rates Voluntary Commutation.

A

# BILL

For the voluntary Commutation of Church Rates.

(*Prepared and brought in by Mr. Alcock and Mr. Evans.*)

*Ordered, by* The House of Commons, *to be Printed*, 14 *February* 1862.

[Bill 16.]

*Under* 1 *oz.*

A

# BILL

FOR

## The Relief of Persons in Holy Orders of the United Church of England and Ireland declaring their Dissent therefrom.

WHEREAS it is expedient to extend the Relief provided by an Act passed in the First Year of the Reign of King William and Queen Mary, intituled "An Act for exempting Their Majesties Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws," to Persons who have received Holy Orders, and who shall afterwards have declared their dissent from the Doctrines of the United Church of England and Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That no Person having been ordered to the Office of Priest or Deacon who shall make and subscribe a Declaration in the Manner herein-after mentioned in the Words following,

Preamble. 1 W. & M. c. 18.

Persons in Holy Orders and becoming Dissenters to be exempt from Ecclesiastical Penalties. 31 G. 3. c. 32.

'I A.B. having been ordained a Priest [*or a Deacon, as the Case may be,*] do solemnly declare, That I conscientiously dissent from the Doctrines of the United Church of England and Ireland,'



and

and shall duly transmit the Copy of the Certificate herein-after mentioned in the Manner herein-after mentioned, shall be subject to any Prosecution, Proceeding, or Punishment in any Ecclesiastical Court for thereafter publicly or privately reading Prayers, or for publicly or privately praying, or for preaching or for administering the Sacrament of the Lord's Supper, in any Chapel or Building neither consecrated nor duly licensed for Public Worship according to the Law and Usage of the said Church, without any Licence or Authority for so doing from the Bishop of the Diocese wherein such Chapel or Building is situate, or for committing any Breach of the Discipline of the said Church as a Person in Holy Orders therein.

Declaration made by such Persons to be recorded at Quarter Sessions.

**2.** The Justices of the Peace for any County, or the Recorder of any City or Borough, at the General or Quarter Sessions of the Peace to be holden for the County, Riding, City, Borough, or Place wherein such Person shall reside, shall tender and administer the said Declaration to such Person on his offering himself to make and subscribe the same, and thereof shall keep a Register, and such Person shall not be required to pay, as a Fee, to any Officer of such Court of General Quarter Sessions above the Sum of *Sixpence* for his Entry of such making and subscribing of the said Declaration, nor above the further Sum of *Sixpence* for making and issuing a Certificate of such Entry, to be made out and signed by such Officer at the Time of such Entry.

Person making Declaration to transmit Copy to Bishop.

**3.** Every such Person shall, within *Three* Days of his making the said Declaration, transmit a true Copy of such Certificate, together with his Letters of Orders and a Statement under his Hand of his then Place of Residence, to the Bishop of the Diocese wherein he holds any Preferment, or in case he holds no Preferment, then to the Bishop of the Diocese wherein he resides, or in case he holds any Preferment in more than One Diocese, then to the Bishop of the Diocese wherein he holds any One Preferment, with an additional Statement accompanying such Copy of the Certificate to such Bishop declaring the Diocese or Dioceses wherein he holds any other Preferment, and he shall also, within the same Time, transmit a Statement of his having made the said Declaration to the Patron or Patrons of the Preferment or Preferments he may then hold.

Bishop to record Declaration as Sentence of Deprivation and Deposition.

**4.** The Bishop to whom such Copy of the Certificate shall have been transmitted shall, within *Thirty* Days of the Receipt of such Copy, record the same in his Registry, and shall further record in his Registry Sentence of Deprivation of such Person of the Preferment, whether donative or otherwise, he may hold within the Diocese of such Bishop, and also Sentence of Deposition of such Person from Holy

Holy Orders; and such Sentences respectively shall have the like Effect to all Intents and Purposes, and shall be followed by the same Consequences as to the Rights and Liabilities of such Person, and as to the Rights of Patrons and all other Persons, as if such Sentences respectively had been duly pronounced by an Ecclesiastical Court having competent Jurisdiction in that Behalf.

Declaration to be recorded as Sentence of Deprivation by Bishop of another Diocese.

**5.** Where such Person shall have stated to the Bishop to whom such Copy of the Certificate shall be transmitted that he holds any Preferment in any other Diocese or Dioceses, such Bishop, after entering such Copy in his Registry, shall forthwith transmit a Copy thereof under his Seal to the Bishop or Bishops of such other Diocese or Dioceses, and such Copy shall be recorded by such Bishop or Bishops in his or their Registry; and such Bishop or Bishops shall record in his or their Registry Sentence of Deprivation of such Person of the Preferment, whether donative or otherwise, which he may hold in the Diocese of such Bishop or Bishops; and such Sentence shall have the like Effect to all Intents and Purposes, and shall be followed by the same Consequences with respect to such last-mentioned Preferment as to the Rights and Liabilities of such Person, and as to the Rights of Patrons and all other Persons, as if such Sentence had been duly pronounced by an Ecclesiastical Court having competent Jurisdiction in that Behalf.

Office or Place to be ipso facto vacant after Entry in the Registry of the Bishop.

**6.** Every Licence Office and Place whatsoever held by such Person, for which it is or may be an indispensable Qualification that the Holder thereof for the Time being should be a Minister or Member of the said United Church, shall become and be, from and after the Date of such Entry of such first-mentioned Copy of the Certificate in the Registry of such Bishop as aforesaid, ipso facto determined or vacant, as the Case may be.

Clerical Rights and Obligations of Person declaring to determine.

**7.** From the Date of the Entry of such Copy of the Certificate in the Registry of the Bishop as aforesaid such Person shall cease to enjoy all Rights, Privileges, and Exemptions to which any Person may be entitled as being in Holy Orders in the said Church, or as having been ordained to the Office of Priest or Deacon, and shall cease to be subject to any Disabilities, Disqualifications, Restraints, Restrictions, and Prohibitions to which any Person is subjected as being in the same Orders, or as having been ordained to the Office of Priest or Deacon, any Law, Custom, Statute, Rule, or Ordinance, civil or ecclesiastical, to the contrary notwithstanding: Provided always, that nothing herein contained shall be deemed to alter or affect the Provision in an Act passed in the Tenth Year of the Reign of King George the Fourth, intituled "An Act for the Relief of His Majesty's

Roman Catholic Subjects," prohibiting any Person in Holy Orders in the Church of Rome from being elected to serve and from sitting or voting in Parliament as a Member of the House of Commons; and provided also, that nothing herein contained shall qualify any such Person to sit in the House of Commons within the Period of *One Year* from the Date when he shall have made the Declaration herein-before contained.

# Clergy Relief.

A

# B I L L

For the Relief of Persons in Holy Orders of the United Church of England and Ireland declaring their Dissent therefrom.

(*Prepared and brought in by Mr. Bouverie and Mr. Edward Ellice.*)

*Ordered, by* The House of Commons, *to be Printed,* 12 *March* 1862.

[Bill 40.]

*Under* 1 *oz.*

22 *May* 1862. 25 Vict.

A

# BILL

[AS AMENDED BY THE SELECT COMMITTEE]

FOR

## The Relief of Persons in Holy Orders of the United Church of England and Ireland declaring their Dissent therefrom.

WHEREAS it is expedient to extend the Relief provided by an Act passed in the First Year of the Reign of King William and Queen Mary, intituled "An Act for exempting Their Majesties Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws," to Persons who have received Holy Orders, and who shall afterwards have declared their Dissent from the Doctrines of the United Church of England and Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,— Preamble. 1 W. & M. c. 18.

Persons in Holy Orders, and becoming Dissenters, to be exempt from Ecclesiastical Penalties. 31 G. 3. c. 32.

1. That no Person having been ordained to the Office of Priest or Deacon, and if a Priest having duly resigned or tendered his Resignation of any and every Benefice held by him, who shall have given Notice in Writing to the Bishop of the Diocese wherein he shall then be resident of his Intention to make the Declaration herein-after mentioned, Six Calendar Months at the least before the making thereof, and who shall have made and subscribed a Declaration in

in Writing in any Court of Record which is hereby empowered to receive the same, in the Manner herein-after mentioned in the Words following,

'I A.B., having been ordained a Priest of the United Church of England and Ireland, [*or* a Deacon, *as the Case may be*,] do solemnly declare, That I conscientiously dissent from the Doctrine and Discipline [*or either of them, as the Case may be*,] of the said Church,'

and shall have duly delivered or transmitted such Declaration to the same Bishop in the Manner herein-after mentioned, shall be subject to any Prosecution, Proceeding, or Punishment in any Ecclesiastical Court for thereafter committing any Breach of the Discipline of the said Church as a Person in Holy Orders therein.

Person making Declaration to transmit same to Bishop.

**2.** Every such Person shall, within Three Days of his making the said Declaration, transmit or deliver the same, together with his Letters of Orders and a Statement under his Hand that such Declaration had been duly made in a Court of Record, and a further Statement of his then Place of Residence, to such Bishop.

Bishop to record Declaration as Sentence of Deprivation and Deposition.

**3.** The Bishop shall, within Thirty Days of the Receipt of such Declaration, cause the same to be recorded in his Registry, and thereafter such Person shall be incapable in Law of holding any Benefice, whether donative or otherwise, and of preaching or officiating in any Office of the Holy Ministry of the said Church; and the Bishop may, if he think fit, further cause to be recorded in his Registry any Sentence which it would be competent to any Ecclesiastical Court to pronounce in a Suit properly instituted for that Purpose against a Clerk in Holy Orders charged with publicly contradicting the Doctrine of the said Church, and disobeying the lawful Authority of his Ordinary, on his Confession of such Charges, accompanied by a Refusal to retract or to render Obedience for the future to such Authority; and such Sentence shall have the like Effect to all Intents, and shall be followed by the same Consequences, as to the Ecclesiastical Rights and Liabilities of such Person, as if the same had been duly pronounced by an Ecclesiastical Court having competent Jurisdiction in that Behalf: Provided always, that no Person shall be ordered by any such Sentence, or be liable by reason thereof, to pay Costs; nor shall any Person be subject or liable by reason of such Sentence, or of his Disobedience thereto, to Imprisonment, or any other temporal Penalty or Punishment whatever.

CLAUSE A.

Copy of Record of Declaration

**4.** A Copy or Extract of the Record of such Declaration in the Bishop's Registry, duly extracted, and certified by the Registrar of the Bishop,

Bishop, shall be sufficient Evidence that such Person has duly made and duly delivered or transmitted such Declaration in the Manner herein-before required, and the Registrar shall furnish such Copy or Extract to such Person, on Payment of a Fee not exceeding Ten Shillings for drawing and entering of Record such Declaration, and for making such Copy or Extract.

from Bishop's Registry to be Evidence of making such Declaration.

CLAUSE B.

**5.** Where any such Priest shall have duly tendered his Resignation of any Benefice held by him as aforesaid, and such Resignation shall not have been accepted, and such Priest shall make the said Declaration, and such Benefice is not within the Diocese to the Bishop whereof such Priest is hereby required to transmit the said Declaration, such Priest, forthwith upon making such Declaration, shall give Notice thereof, and of his having made the same, both to the Bishop of the Diocese wherein such Benefice is situate and to the Patron of such Benefice.

Proceeding where Resignation of Benefice not accepted.

**6.** Every Licence, Office, and Place whatsoever held by such Person, for which it is or may be an indispensable Qualification that the Holder thereof for the Time being should be a Minister or Member of the said United Church, shall become and be, from and after the Date of the Entry of such Declaration in the Registry of such Bishop as aforesaid, ipso facto determined or vacant, as the Case may be.

Office or Place to be ipso facto vacant after Entry in the Registry of the Bishop.

**7.** From such Date as aforesaid such Person shall cease to enjoy all Rights, Privileges, and Exemptions to which any Person may be entitled as being in Holy Orders in the said Church, or as having been ordained to the Office of Priest or Deacon in the said Church, and shall cease to be subject to any Disabilities, Disqualifications, Restraints, Restrictions, and Prohibitions to which any Person is subjected as being in the same Orders, or as having been ordained to such Office of Priest or Deacon, any Law, Custom, Statute, Rule, or Ordinance, civil or ecclesiastical, to the contrary notwithstanding: Provided always, that nothing herein contained shall qualify any such Person to sit in the House of Commons.

Clerical Rights and Obligations of Person declaring to determine.

# Clergy Relief.

A

# B I L L

[AS AMENDED BY THE SELECT COMMITTEE]

For the Relief of Persons in Holy Orders of the United Church of England and Ireland declaring their Dissent therefrom.

*(Prepared and brought in by Mr. Bouverie and Mr. Edward Ellice.)*

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*Ordered, by* The House of Commons, *to be Printed*, 22 *May* 1862.

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[Bill 132.]

*Under* 1 *oz.*

16 *June* 1862. 25 Vict.

A

# BILL

TO

## Amend the Law relating to Coal Mines.

Preamble. 23 & 24 Vict. c. 151.

WHEREAS it is expedient to amend an Act passed in the Session holden in the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and fifty-one, and intituled "An Act for the Regulation "and Inspection of Mines," and herein-after referred to as the "Principal Act:" Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Application of Act.

**1.** This Act shall apply only to Coal Mines and Ironstone Mines mentioned in the Seventh Section of the Principal Act.

Interpretation Clause: "Shaft:"

**2.** The Word "Shaft," as used in this Act, shall include any Inclined Plane or Level used for the same Purposes for which a Shaft is used:

"Existing Mine:"

The Expression "existing Mine" shall mean a Mine that is actually being worked at the Time of the passing of this Act:

"New Mine."

The Expression "new Mine" shall mean a Mine opened after the passing of this Act, or an old Mine the working of which is begun afresh after the passing of this Act.



**3.** After

Prohibition of single Shafts.

**3.** After the *passing of this Act* it shall not be lawful for the Owner of a new Mine, and after the *First Day of January One thousand eight hundred and sixty-five* it shall not be lawful for the Owner of an existing Mine, to employ any Person in working within such Mine, or to permit any Person to be in such Mine for the Purpose of working therein, unless there are in communication with every Seam of such Mine for the Time being at work at least *Two* Shafts or Outlets, separated by natural Strata of not less than *Ten Feet* in Breadth, and affording distinct Means of Ingress and Egress to the Persons employed in the Mine; but it shall not be necessary for the *Two* Shafts or Outlets to belong to the same Mine, if the Persons therein employed have a free Right of Ingress and Egress by not less than *Two* Shafts or Outlets, One or more of which may belong to another Mine.

This Section shall not apply to opening a new Mine for the Purpose of searching for Minerals, or to any Working for the Purpose of making a Communication between Two or more Shafts, so long as not more than *Twenty* Persons are employed at any One Time in the said new Mine or Working.

Appeal by Owner of existing Mine to Arbitration.

**4.** If the Owner of any existing Mine objects, within such Time as is herein-after mentioned, in Writing addressed to the Inspector, that by reason of his Mine being nearly exhausted, or from any other special Cause, he ought to be exempted from the Obligation of providing an additional Shaft in pursuance of this Act, or that he cannot provide an additional Shaft within the Time limited by this Act, a Reference shall be made to Arbitration as to whether the Owner ought or ought not, under the Circumstances, to provide an additional Shaft, or ought or ought not to have an Extension of Time for providing an additional Shaft. If the Result of the Arbitration is in favour of the Owner, he shall, as the Case requires, be relieved from the Obligation of providing an additional Shaft, or have such Extension of Time granted to him for providing an additional Shaft as may be determined by the Award. If the Result of the Arbitration be against the Owner, or if no Award is made by reason of any Default or Neglect on the Part of the Owner, he shall be bound to comply with the Provisions of this Act, in the same Manner as if this Section had not been enacted.

Mode of conducting Arbitrations.

**5.** Arbitrations, in pursuance of this Act, shall be conducted in manner directed by the Thirteenth Section of the Principal Act in Cases where the Owner, within the Twenty Days therein mentioned, objects to any Alterations in or Additions to Rules, or Rules by way of Substitution proposed by the Secretary of State; but no Objection made in pursuance of this Act by the Owner of an existing Mine shall

shall be entertained unless it is made within the Times following; that is to say, if he claims to be exempted from the Obligation of providing an additional Shaft in pursuance of this Act, within *Six* Calendar Months after the passing of this Act; and if he claims to have an Extension of Time for providing an additional Shaft, within the *Six* Calendar Months immediately preceding the *First Day of January One thousand eight hundred and sixty-five.*

Power to enforce by Injunction Compliance with Act.

**6.** Any of Her Majesty's Superior Courts may, at the Instance of the Inspector having Jurisdiction in the District, prohibit by Injunction the working of any Mine in which any Person is employed in working, or is permitted to be for the Purpose of working, in contravention of the Provisions of this Act, and may award such Costs in the Matter of the Injunction as the Court thinks just; but this Section shall be without Prejudice to any other Remedy permitted by Law for enforcing the Provisions of this Act.

Construction of Act.

**7.** This Act shall be construed as One with the Principal Act, and the Powers hereby given shall be deemed to be in addition to and not in derogation of any Powers conferred by the Principal Act, and such last-mentioned Powers may be exercised in the same Manner as if this Act had not been passed.

# Coal Mines.

A

# BILL

To amend the Law relating to Coal Mines.

(*Prepared and brought in by Sir George Grey and Mr. Clive.*)

*Ordered, by* The House of Commons, *to be Printed,* 16 *June* 1862.

[Bill 155.]

*Under* 1 *oz.*

A

# BILL

[AS AMENDED IN COMMITTEE]

TO

## Amend the Law relating to Coal Mines.

Preamble. 23 & 24 Vict. c. 151.

WHEREAS it is expedient to amend an Act passed in the Session holden in the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and fifty-one, and intituled "An Act for the Regulation "and Inspection of Mines," and herein-after referred to as the "Principal Act:" Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Application of Act.

**1.** This Act shall apply only to Coal Mines and Ironstone Mines mentioned in the Seventh Section of the Principal Act.

Interpretation: "Existing Mine:" "New Mine."

**2.** The Expression "existing Mine" shall mean a Mine that is actually being worked at the Time of the passing of this Act: The Expression "new Mine" shall mean a Mine opened after the passing of this Act, or an old Mine the working of which is begun afresh after the passing of this Act.



**3.** After

Prohibition of single Shafts.

**3.** After the passing of this Act it shall not be lawful for the Owner of a new Mine, and after the First Day of January One thousand eight hundred and sixty-five it shall not be lawful for the Owner of an existing Mine, to employ any Person in working within such Mine, or to permit any Person to be in such Mine for the Purpose of working therein, unless there are in communication with every Seam of such Mine for the Time being at work at least Two Shafts or Outlets, separated by natural Strata of not less than Ten Feet in Breadth, by which Shafts or Outlets distinct Means of Ingress and Egress are available to the Persons employed in the Mine; but it shall not be necessary for the Two Shafts or Outlets to belong to the same Mine, if the Persons therein employed have available Means of Ingress and Egress by not less than Two Shafts or Outlets, One or more of which may belong to another Mine.

This Section shall not apply to opening a new Mine for the Purpose of searching for or proving Minerals, or to any Working for the Purpose of making a Communication between Two or more Shafts, so long as not more than Twenty Persons are employed at any One Time in the said new Mine or Working.

Appeal by Owner of existing Mine to Arbitration.

**4.** If the Owner of any existing Mine objects, within such Time as is herein-after mentioned, in Writing addressed to One of Her Majesty's Principal Secretaries of State, that by reason of the Nature of the Mine, or from its being nearly exhausted, or from any other special Cause, he ought to be exempted from the Obligation of providing an additional Shaft or Outlet in pursuance of this Act, or that he cannot provide an additional Shaft or Outlet within the Time limited by this Act, a Reference shall be made to Arbitration as to whether the Owner ought or ought not, under the Circumstances, to provide an additional Shaft or Outlet, or ought or ought not to have an Extension of Time for providing an additional Shaft or Outlet. If the Result of the Arbitration is in favour of the Owner, he shall, as the Case requires, be relieved from the Obligation of providing an additional Shaft or Outlet, or have such Extension of Time granted to him for providing an additional Shaft or Outlet as may be determined by the Award. If the Result of the Arbitration be against the Owner, or if no Award is made by reason of any Default or Neglect on the Part of the Owner, he shall be bound to comply with the Provisions of this Act, in the same Manner as if this Section had not been enacted.

Mode of conducting Arbitrations.

**5.** Arbitrations, in pursuance of this Act, shall be conducted in manner directed by the Thirteenth Section of the Principal Act in Cases where the Owner, within the Twenty Days therein mentioned, objects to any Alterations in or Additions to Rules, or Rules by way of

of Substitution proposed by the Secretary of State; but no Objection made in pursuance of this Act by the Owner of an existing Mine shall be entertained unless it is made within the Times following; that is to say, if he claims to be exempted from the Obligation of providing an additional Shaft or Outlet in pursuance of this Act, within Six Calendar Months after the passing of this Act; and if he claims to have an Extension of Time for providing an additional Shaft or Outlet, within the Six Calendar Months immediately preceding the First Day of January One thousand eight hundred and sixty-five.

Power to enforce by Injunction Compliance with Act.

**6.** Any of Her Majesty's Superior Courts of Law or Equity may, upon the Application of the Attorney General acting on behalf of the said Secretary of State, prohibit by Injunction the working of any Mine in which any Person is employed in working, or is permitted to be for the Purpose of working, in contravention of the Provisions of this Act, and may award such Costs in the Matter of the Injunction as the Court thinks just; but this Section shall be without Prejudice to any other Remedy permitted by Law for enforcing the Provisions of this Act.

Construction of Act.

**7.** This Act shall be construed as One with the Principal Act, and the Powers hereby given shall be deemed to be in addition to and not in derogation of any Powers conferred by the Principal Act, and such last-mentioned Powers may be exercised in the same Manner as if this Act had not been passed.

# Coal Mines.

A

# BILL

To amend the Law relating to Coal Mines.

(*Prepared and brought in by Sir George Grey and Mr. Clive.*)

*Ordered, by* The House of Commons, *to be Printed,* 16 *June* 1862.

[Bill 155.]

*Under* 1 *oz.*

A

# BILL

[AS AMENDED IN COMMITTEE]

TO

## Amend the Law relating to Coal Mines.

WHEREAS it is expedient to amend an Act passed in the Session holden in the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and fifty-one, and intituled "An Act for the Regulation "and Inspection of Mines," and herein-after referred to as the "Principal Act:" Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble. 23 & 24 Vict. c. 151.

1. This Act shall apply only to Coal Mines and Ironstone Mines mentioned in the Seventh Section of the Principal Act. Application of Act.

2. The Expression "existing Mine" shall mean a Mine that is actually being worked at the Time of the passing of this Act: The Expression "new Mine" shall mean a Mine opened after the passing of this Act, or an old Mine the working of which is begun afresh after the passing of this Act. Interpretation: "Existing Mine:" "New Mine."



3. After

Prohibition of single Shafts.

**3.** After the passing of this Act it shall not be lawful for the Owner of a new Mine, and after the First Day of January One thousand eight hundred and sixty-five it shall not be lawful for the Owner of an existing Mine, to employ any Person in working within such Mine, or to permit any Person to be in such Mine for the Purpose of working therein, unless there are in communication with every Seam of such Mine for the Time being at work at least Two Shafts or Outlets, separated by natural Strata of not less than Ten Feet in Breadth, by which Shafts or Outlets distinct Means of Ingress and Egress are available to the Persons employed in the Mine; but it shall not be necessary for the Two Shafts or Outlets to belong to the same Mine, if the Persons therein employed have available Means of Ingress and Egress by not less than Two Shafts or Outlets, One or more of which may belong to another Mine.

This Section shall not apply to opening a new Mine for the Purpose of searching for or proving Minerals, or to any Working for the Purpose of making a Communication between Two or more Shafts, so long as not more than Twenty Persons are employed at any One Time in the said new Mine or Working.

Appeal by Owner of existing Mine to Arbitration.

**4.** If the Owner of any existing Mine objects, within such Time as is herein-after mentioned, in Writing addressed to One of Her Majesty's Principal Secretaries of State, that by reason of the Nature of the Mine, or from its being nearly exhausted, or from any other special Cause, he ought to be exempted from the Obligation of providing an additional Shaft or Outlet in pursuance of this Act, or that he cannot provide an additional Shaft or Outlet within the Time limited by this Act, a Reference shall be made to Arbitration as to whether the Owner ought or ought not, under the Circumstances, to provide an additional Shaft or Outlet, or ought or ought not to have an Extension of Time for providing an additional Shaft or Outlet. If the Result of the Arbitration is in favour of the Owner, he shall, as the Case requires, be relieved from the Obligation of providing an additional Shaft or Outlet, or have such Extension of Time granted to him for providing an additional Shaft or Outlet as may be determined by the Award. If the Result of the Arbitration be against the Owner, or if no Award is made by reason of any Default or Neglect on the Part of the Owner, he shall be bound to comply with the Provisions of this Act, in the same Manner as if this Section had not been enacted.

Mode of conducting Arbitrations.

**5.** Arbitrations, in pursuance of this Act, shall be conducted in manner directed by the Thirteenth Section of the Principal Act in Cases where the Owner, within the Twenty Days therein mentioned, objects to any Alterations in or Additions to Rules, or Rules by way of

of Substitution proposed by the Secretary of State; but no Objection made in pursuance of this Act by the Owner of an existing Mine shall be entertained unless it is made within the Times following; that is to say, if he claims to be exempted from the Obligation of providing an additional Shaft or Outlet in pursuance of this Act, within Six Calendar Months after the passing of this Act; and if he claims to have an Extension of Time for providing an additional Shaft or Outlet, within the Six Calendar Months immediately preceding the First Day of January One thousand eight hundred and sixty-five.

Power to enforce by Injunction Compliance with Act.

**6.** Any of Her Majesty's Superior Courts of Law or Equity may, upon the Application of the Attorney General acting on behalf of the said Secretary of State, prohibit by Injunction the working of any Mine in which any Person is employed in working, or is permitted to be for the Purpose of working, in contravention of the Provisions of this Act, and may award such Costs in the Matter of the Injunction as the Court thinks just; but this Section shall be without Prejudice to any other Remedy permitted by Law for enforcing the Provisions of this Act.

Construction of Act.

**7.** This Act shall be construed as One with the Principal Act, and the Powers hereby given shall be deemed to be in addition to and not in derogation of any Powers conferred by the Principal Act, and such last-mentioned Powers may be exercised in the same Manner as if this Act had not been passed.

# Coal Mines.

A

# BILL

[AS AMENDED IN COMMITTEE]

To amend the Law relating to Coal Mines.

(*Prepared and brought in by Sir George Grey and Mr. Clive.*)

*Ordered, by* The House of Commons, *to be Printed,* 24 *June* 1862.

[Bill 164.]

*Under* 1 *oz.*

LORDS AMENDMENTS

TO THE

# COAL MINES BILL.

Note.—*The Page and Line refer to the Bill* (144.) *as printed by the Lords.*

*Page* 3.

Line 19. After ("Act") insert Clause (A.)

Clause (A.) No Person shall be precluded by any Agreement made before the passing of this Act from doing such Acts as may be necessary for providing an additional Shaft or Outlet to a Mine where the same is required by this Act, or be liable under any Agreement to any Penalty or Forfeiture for doing such Acts as may be necessary in order to comply with the Provisions of this Act.

[Bill 235.]

# LORDS AMENDMENTS

TO THE

# COAL MINES BILL.

*Ordered, by* The House of Commons, *to be Printed*,
25 *July* 1862.

[Bill 235.]

*Under* 1 *oz.*

18 *March* 1862. 25 Vict.

A

# BILL

TO

## Define the Powers of the President and Fellows of the King and Queen's College of Physicians in Ireland with respect to the Election of its Fellows.

WHEREAS by an Act passed in the Parliament of Ireland in the Fortieth Year of the Reign of His late Majesty King George the Third, Chapter Eighty-four, it is amongst other Things enacted, in the Forty-second Section thereof, that no Person shall be capable of being elected a Fellow of the College of Physicians (incorporated by the Name of the President and Fellows of the King and Queen's College of Physicians in Ireland) who shall not have taken the Degree of Bachelor or Master in Arts or Doctor in Physic in One of the Universities in Dublin, Oxford, or Cambridge, unless the Number of Fellows shall at any Time be reduced to Six, in which Case only, whenever it may happen, such Qualification of the Degree of Bachelor or Master in Arts or Doctor of Physic may be dispensed with respectively: And whereas under the Charter which had been granted to the said College of Physicians in the Fourth Year of the Reign of King William and Queen Mary, the said College

Preamble. 40 G. 3. c. 84. (I.)



was

was empowered to elect to the Fellowship thereof without Restriction such of its Licentiates as it deemed deserving of such Distinction: And whereas the said Restriction imposed by the said recited Act is unjust to Universities and Colleges other than those of Dublin, Oxford, or Cambridge, and it is expedient that the same should be repealed, and that the said President and Fellows of the said College should be enabled to elect to the Fellowship thereof such of its Licentiates as are Graduates in Arts of any University of the United Kingdom of Great Britain and Ireland, and also such of its Licentiates as may appear to them to merit such Distinction by reason of their personal and professional Attainments: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Commencement of Act.

**1.** This Act shall commence and take effect from and after the *First Day of September One thousand eight hundred and sixty-two.*

From Commencement of Act, Part of 40 G. 3. c. 84. s. 42. (I.) repealed.

**2.** From and after the *Commencement of this Act*, so much of the said recited Act as provides that no Person shall be capable of being elected a Fellow of the said College of Physicians in Ireland who shall not have taken the Degree of Bachelor or Master in Arts or Doctor in Physic in One of the Universities of Dublin, Oxford, or Cambridge, unless the Number of Fellows shall at any Time be reduced to Six, in which Case only, whenever it may happen, such Qualification of the Degree of Bachelor or Master in Arts or Doctor in Physic may be dispensed with respectively, shall be repealed.

Defining Powers of College with respect to Admissions to its Fellowships.

**3.** From and after the *Commencement of this Act* it shall be lawful for the President and Fellows of the King and Queen's College of Physicians in Ireland to elect to the Fellowship of the said College, under such Limitations as may to them seem fit, such of its Licentiates as are Graduates in Arts or Doctors in Physic of any University or College of the United Kingdom of Great Britain and Ireland, or of any Foreign University or College; and also such of its Licentiates, not being such Graduates in Arts or Doctors in Physic, as may appear to the said President and Fellows to merit such Distinction.

# College of Physicians (Ireland).

A

# B I L L

To define the Powers of the President and Fellows of the King and Queen's College of Physicians in Ireland with respect to the Election of its Fellows.

(*Prepared and brought in by Sir Robert Peel and Sir George Grey.*)

*Ordered, by* The House of Commons, *to be Printed,* 18 *March* 1862.

[Bill 48 ]

*Under* 1 *oz.*

# Companies, &c. Bill.

## ARRANGEMENT OF CLAUSES.


| | Corresponding Clauses in former Acts. |
|---|---|
| *Preliminary.* | |
| 1. Short Title of Act. | |
| 2. Commencement of Act. | |
| 3. Prohibition of Partnerships exceeding certain Number - - - - - - | 20 Vict. c. 47. s. 4.<br>21 Vict. c. 49. s. 13. |
| 4. Division of Act. | |
| **PART I.** | |
| CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT. | |
| *Memorandum of Association.* | |
| 5. Mode of forming Company - - - | 20 Vict. c. 47. s. 3. |
| 6. Mode of limiting Liability of Members. | |
| 7. Memorandum of Association of a Company limited by Shares - - - - - | 20 Vict. c. 47. s. 5. |
| 8. Memorandum of Association of a Company limited by Guarantee. | |
| 9. Memorandum of Association of an Unlimited Company - - - - - | 20 Vict. c. 47. s. 10. |
| 10. Stamp, Signature, and Effect of Memorandum of Association - - - | 20 Vict. c. 47. s. 7. |
| 11. Power of certain Companies to alter Memorandum of Association - - - | 20 Vict. c. 47. s. 37. |
| 12. Power of Companies to change Name. | |
| *Articles of Association.* | |
| 13. Regulations to be prescribed by Articles of Association - - - - - | 20 Vict. c. 47. s. 9. |
| 14. Application of Table A. - - - | 20 Vict. c. 47. s. 9. |
| 15. Stamp, Signature, and Effect of Articles of Association - - - - - | 20 Vict. c. 47. s. 11. |
| *General Provisions.* | |
| 16. Registration of Memorandum of Association and Articles of Association, with Fees, as in Table B. - - - - - - | 20 Vict. c. 47. s. 12. |
| 17. Effect of Registration - - - - | 20 Vict. c. 47. s. 13.<br>21 Vict. c. 14. s. 4. |
| 18. Copies of Memorandum and Articles to be given to Members - - - | 20 Vict. c. 47. s. 27.<br>21 Vict. c. 14. s. 10. |
| 19. Prohibition against Identity of Names in Companies - - - - - | 20 Vict. c. 47. s. 6. |
| 20. Prohibition against certain Companies holding Land. - - - - - | 20 Vict. c. 47. s. 38. |

## PART II.

### Distribution of Capital and Liability of Members of Companies and Associations under this Act.


| | Corresponding Clauses in former Acts. |
|---|---|
| *Distribution of Capital.* | |
| 21. Nature of Interest in Company | 20 Vict. c. 47. s. 15. |
| 22. Definition of "Member" | 20 Vict. c. 47. ss. 8. 19. |
| 23. Transfer by Personal Representative. | |
| 24. Register of Members | 20 Vict. c. 47. ss. 16, 17. |
| 25. Annual List of Members | 20 Vict. c. 47. s. 17. |
| 26. Penalty on Company not keeping a proper Register | 20 Vict. c. 47. s. 18. |
| 27. Company to give Notice of Conversion of Capital into Stock | 21 Vict. c. 14. s. 6. |
| 28. Effect of Conversion of Shares into Stock | 21 Vict. c. 14. s. 7. |
| 29. Entry of Trusts on Register | 20 Vict. c. 47. s. 19.<br>21 Vict. c. 49. s. 15. |
| 30. Certificate of Shares or Stock | 20 Vict. c. 47. s. 21. |
| 31. Inspection of Register | 20 Vict. c. 47. s. 23. |
| 32. Power to close Register | 20 Vict. c. 47. s. 24. |
| 33. Notice of Increase of Capital and of Members to be given to Registrar | 20 Vict. c. 47. s. 37. |
| 34. Remedy for improper Entry or Omission of Entry in Register | 20 Vict. c. 47. s. 25.<br>21 Vict. c. 14. s. 9. |
| 35. Notice to Registrar of Rectification of Register. | |
| 36. Register to be Evidence | 20 Vict. c. 47. s. 26. |
| *Liability of Members.* | |
| 37. Liability of present and past Members of Company | 20 Vict. c. 47. s. 62. |


## PART III.

### Management and Administration of Companies and Associations under this Act.


| | |
|---|---|
| *Provisions for Protection of Creditors.* | |
| 38. Registered Office of Company | 20 Vict. c. 47. s. 28. |
| 39. Notice of Situation of registered Office | 20 Vict. c. 47. s. 29. |
| 40. Publication of Name by a Limited Company | 20 Vict. c. 47. s. 30. |
| 41. Penalties on Non-publication of Name | 20 Vict. c. 47. s. 31. |
| 42. Register of Mortgages | |
| 43. Limited Banking and Insurance Companies to publish Statement entered in Schedule | 22 Vict. c. 91. s. 4. |
| 44. List of Directors to be sent to Registrar. | |
| 45. Penalty on Company not keeping Register of Directors. | |
| 46. Promissory Notes and Bills of Exchange | 20 Vict. c. 47. s. 43. |
| 47. Prohibition against carrying on Business with less than Seven Members | 20 Vict. c. 47. s. 39. |

| | Corresponding Clauses in former Acts. |
|---|---|
| *Provisions for Protection of Members.* | |
| 48. General Meeting of Company | 20 Vict. c. 47. s. 32. |
| 49. Power to alter Regulations by Special Resolution | 20 Vict. c. 47. s. 33. |
| 50. Definition of Special Resolution | 20 Vict. c. 47. s. 34. |
| 51. Provision where no Regulations as to Meetings. | |
| 52. Registry of Special Resolutions | 20 Vict. c. 47. s. 35. |
| 53. Copies of Special Resolutions | 20 Vict. c. 47. s. 36. |
| 54. Execution of Deeds abroad | 20 Vict. c. 47. s. 42. |
| 55. Examination of Affairs of Company by Inspectors | 20 Vict. c. 47. s. 48.<br>21 Vict. c. 49. s. 14. |
| 56. Application for Inspection to be supported by Evidence. | |
| 57. Inspection of Books | 20 Vict. c. 47. s. 49. |
| 58. Result of Examination, how dealt with | 20 Vict. c. 47. s. 50. |
| 59. Power of Company to appoint Inspectors | 20 Vict. c. 47. s. 51. |
| 60. Report of Inspectors to be Evidence | 20 Vict. c. 47. s. 52. |
| *Notices.* | |
| 61. Service of Notices on Company | 20 Vict. c. 47. s. 53. |
| 62. Rules as to Notices by Letter | 20 Vict. c. 47. s. 54. |
| 63. Authentication of Notices of Company | 20 Vict. c. 47. s. 55. |
| *Legal Proceedings.* | |
| 64. Recovery of Penalties | 20 Vict. c. 47. s. 56. |
| 65. Application of Penalties | 20 Vict. c. 47. s. 56. |
| 66. Evidence of Proceedings at Meetings | 20 Vict. c. 47. s. 40.<br>8 Vict. c. 16. ss. 98, 99. |
| 67. Jurisdiction of Vice-Warden of Stannaries. | |
| 68. Provision as to Costs in Actions brought by certain Limited Companies | 21 Vict. c. 14. s. 24. |
| 69. Declaration in Action against Member. | |
| *Alteration of Forms.* | |
| 70. Board of Trade may alter Forms in Schedule | 20 Vict. c. 47. s. 58.<br>21 Vict. c. 14. s. 22. |
| *Arbitrations.* | |
| 71. Power for Companies to refer Matters to Arbitration | |
| 72. Provisions of Railway Companies Arbitration Act to apply | |

## PART IV.

### Winding up of Companies and Associations under this Act.

#### *Preliminary.*


| | Corresponding Clauses in former Acts. |
|---|---|
| 73. Meaning of Contributory - - - | 20 Vict. c. 47. s. 65. |
| 74. Nature of Liability of Contributory - | 21 Vict. c. 14. s. 13. |
| 75. Contributories in case of Death - - | 20 Vict. c. 47. s. 65. |
| 76. Contributories in case of Bankruptcy - | 12 & 13 Vict. c. 108. s. 14. |
| 77. Contributories in case of Marriage - - | 12 & 13 Vict. c. 108. s. 14. |


#### *Winding up by Court.*


| | |
|---|---|
| 78. Circumstances under which Company may be wound up by Court - - - - | 20 Vict. c. 47. s. 67. |
| 79. Company when deemed unable to pay its Debts | 20 Vict. c. 47. s. 68. |
| 80. Definition of "the Court" - - - | 20 Vict. c. 47. s. 60.<br>20 & 21 Vict. c. 78. s. 12. |
| 81. Power of Vice-Warden of the Stannaries. | |
| 82. Application for winding up to be made by Petition - - - - - - | 20 Vict. c. 47. s. 69. |
| 83. Commencement of winding up by Court - | 20 Vict. c. 47. s. 64. |
| 84. Court may grant Injunction - - - | 20 Vict. c. 47. s. 84. |
| 85. Course to be pursued by Court on hearing Petition - - - - - | 20 Vict. c. 47. ss. 70, 71, 72. |
| 86. Actions and Suits to be stayed after Order for winding up - - - | 20 Vict. c. 47. s. 84. |
| 87. Copy of Order to be forwarded to Registrar - | 20 Vict. c. 47. s. 73. |
| 88. Power of Court to stay Proceedings - - | 20 Vict. c. 47. s. 85. |
| 89. Effect of Order on Share Capital of Company limited by Guarantee. | |
| 90. Court may have regard to Wishes of Creditors or Contributories. | |


#### *Official Liquidators.*


| | |
|---|---|
| 91. Appointment of Official Liquidators - - | 20 Vict. c. 47. s. 88. |
| 92. Resignations, Removals, and filling up Vacancies. | |
| 93. Style and Duties of Official Liquidator - | 20 Vict. c. 47. s. 89. |
| 94. Powers of Official Liquidator - - | 20 Vict. c. 47. s. 90.<br>22 Vict. c. 60. s. 18. |
| 95. Discretion of Official Liquidator - - | 22 Vict. c. 60. s. 9. |
| 96. Appointment of Solicitor to Official Liquidator | 20 Vict. c. 47. s. 91. |


#### *Ordinary Powers of Court.*


| | |
|---|---|
| 97. Collection and Application of Assets - | 20 Vict. c. 47. s. 75. |
| 98. Provision as to representative Contributories | 11 & 12 Vict. c. 45. s. 76. |
| 99. Power of Court to require Delivery of Property - - - - - | 11 & 12 Vict. c. 45. s. 66. |
| 100. Power of Court to order Payment of Debts by Contributory - - - | 11 & 12 Vict. c. 45. s. 66. |
| 101. Power of Court to make Calls - - | 20 Vict. c. 47. s. 82. |

| | Corresponding Clauses in former Acts. |
|---|---|
| 102. Power of Court to order Payment into Bank. | |
| 103. Regulation of Account with Court - - | 12 & 13 Vict. c. 106. s. 39. |
| 104. Provision in case of representative Contributory not paying Monies ordered. | |
| 105. Order conclusive Evidence. - - - | 11 & 12 Vict. c. 45. s. 89. |
| 106. Court may exclude Creditors not proving within a certain Time - - - | 20 Vict. c. 47. s. 84. |
| 107. Proceedings in the Court of the Vice-Warden of the Stannaries. | |
| 108. Court to adjust Rights of Contributories - | 20 Vict. c. 47. s. 86. |
| 109. Court to order Costs - - - | 20 Vict. c. 47. s. 87. |
| 110. Dissolution of Company - - - - | 20 Vict. c. 47. s. 93. |
| 111. Registrar to make Minute of Dissolution of Company - - - - | 20 Vict. c. 47. s. 94. |
| 112. Penalty on not reporting Dissolution of Company - - - - | 21 Vict. c. 14. s. 20. |
| 113. Petition to be Lis pendens - - - | 11 & 12 Vict. c. 45. s. 125. |

*Extraordinary Powers of Court.*

| | |
|---|---|
| 114. Power of Court to summon Persons before it suspected of having Property of Company - | 20 Vict. c. 47. s. 77.<br>11 & 12 Vict. c. 45. s. 63. |
| 115. Special Provisions as to Court of Vice-Warden of the Stannaries. | |
| 116. Examination of Parties by Court - - | 20 Vict. c. 47. s. 78. |
| 117. Power to arrest Contributory about to abscond, or to remove or conceal any of his Property | 21 Vict. c. 14. s. 11. |
| 118. Powers of Court cumulative. | |

*Enforcement of and Appeal from Orders.*

| | |
|---|---|
| 119. Power to enforce Orders - - - - | 20 Vict. c. 47. s. 60. |
| 120. Power to order Contributories in Scotland to pay Calls - - - - - - | 22 Vict. c. 60. s. 5. |
| 121. Order made in England to be enforced in Ireland and Scotland - - - | 22 Vict. c. 60. s. 12. |
| 122. Mode of dealing with Orders to be enforced by other Courts - - - | 22 Vict. c. 60. s. 13. |
| 123. Appeals from Orders - - - - - | 11 & 12 Vict. c. 45. ss. 101, 102.<br>12 & 13 Vict. c. 108. s. 33. |
| 124. Judicial Notice to be taken of Signature of Officers - - - - - - | 11 & 12 Vict. c. 45. s. 111. |
| 125. Special Commissioners for receiving Evidence | 20 Vict. c. 47. s. 101. |
| 126. Court may order the Examination of Persons in Scotland - - - - - | 12 & 13 Vict. c. 108. s. 21. |
| 127. Affidavits, &c. may be sworn in Ireland, Scotland, or the Colonies, before any competent Court or Person - - - - | 12 & 13 Vict. c. 108. s. 24. |

*Voluntary Winding-up of Company.*

| | |
|---|---|
| 128. Circumstances under which Company may be wound up voluntarily - - - - | 20 Vict. c. 47. s. 102. |
| 129. Commencement of voluntary Winding-up - | 20 Vict. c. 47. s. 64. |
| 130. Effect of voluntary Winding-up on Status of Company - - - - - - | 20 Vict. c. 47. s. 104. |

| | Corresponding Clauses in former Acts. |
|---|---|
| 131. Notice of Resolution to wind up voluntarily | 20 Vict. c. 47. s. 103. |
| 132. Consequences of voluntary Winding-up | 20 Vict. c. 47. s. 104. |
| 133. Effect of Winding-up on Share Capital of Company limited by Guarantee. | |
| 134. Power of Company to delegate Authority to appoint Liquidators. | |
| 135. Arrangement when binding on Creditors. | |
| 136. Power of Creditor or Contributory to appeal. | |
| 137. Power for Liquidators or Contributories in voluntary Winding-up to apply to Court | 22 Vict. c. 60. s. 14. |
| 138. Power of Liquidators to call General Meeting | 21 Vict. c. 14. s. 18. |
| 139. Power to fill up Vacancy in Liquidators | 22 Vict. c. 60. s. 15. |
| 140. Power of Court to appoint Liquidators. | |
| 141. Liquidators on Conclusion of Winding-up to make up an Account | 20 Vict. c. 47. s. 104. |
| 142. Liquidators to report Meeting to Registrar | 20 Vict. c. 47. s. 104. |
| 143. Costs of voluntary Liquidation | 20 Vict. c. 47. s. 104. |
| 144. Saving of Rights of Creditors | 20 Vict. c. 47. s. 105. |
| 145. Power of Court to adopt Proceedings of voluntary Winding-up | 21 Vict. c. 14. s. 19. |


*Winding up subject to the Supervision of the Court.*


| | |
|---|---|
| 146. Power of Court, on Application, to direct Winding-up, subject to Supervision | 21 Vict. c. 14. s. 19. |
| 147. Petition for winding up, subject to Supervision | 22 Vict. c. 60. s. 2. |
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# BILL

FOR

## The Incorporation, Regulation, and Winding-up of Trading Companies and other Associations.

WHEREAS it is expedient that the Laws relating to the Incorporation, Regulation, and Winding-up of Trading Companies and other Associations should be consolidated and amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

*Preliminary.*

**1.** This Act may be cited for all Purposes as "The Companies Act, 1862." Short Title of Act.

**2.** This Act, with the Exception of such temporary Enactment as is herein-after declared to come into operation immediately, shall not come into operation until the *Second Day of November One thousand eight hundred and sixty-two*, and the Time at which it so comes into operation is herein-after referred to as the Commencement of this Act. Commencement of Act.

**3.** No Company, Association, or Partnership consisting of more than *Ten* Persons shall be formed, after the *Commencement of this Act*, Prohibition of Partnerships ex-

ceeding certain Number. 20 Vict. c. 47. s. 4. 21 Vict. c. 49. s. 13.

for the Purpose of carrying on the Business of Banking, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act of Parliament, or of Letters Patent; and no Company, Association, or Partnership consisting of more than *Twenty* Persons shall be formed, after the Commencement of this Act, for the Purpose of carrying on any other Business that has for its Object the Acquisition of Gain by the Company, Association, or Partnership, or by the individual Members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act of Parliament, or of Letters Patent, or is a Company engaged in working Mines within and subject to the Jurisdiction of the Stannaries.

Division of Act.

**4.** This Act is divided into Nine Parts, relating to the following Subject Matters:

The First Part,—to the Constitution and Incorporation of Companies and Associations under this Act:

The Second Part,—to the Distribution of the Capital and Liability of Members of Companies and Associations under this Act:

The Third Part,—to the Management and Administration of Companies and Associations under this Act:

The Fourth Part,—to the winding up of Companies and Associations under this Act:

The Fifth Part,—to the Registration Office:

The Sixth Part,—to Application of this Act to Companies registered under the Joint Stock Companies Acts:

The Seventh Part,—to Companies authorized to register under this Act:

The Eighth Part,—to Application of this Act to unregistered Companies:

The Ninth Part,—to Repeal of Acts, and temporary Provisions.

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## PART I.

### Constitution and Incorporation of Companies and Associations under this Act.

*Memorandum of Association.*

Mode of forming Company. 20 Vict. c. 47. s. 3.

**5.** Any *Seven* or more Persons associated for any lawful Purpose may, by subscribing their Names to a Memorandum of Association, and otherwise complying with the Requisitions of this Act in respect of

of Registration, form an incorporated Company, with or without limited Liability.

Mode of limiting Liability of Members.

**6.** The Liability of the Members of a Company formed under this Act may, according to the Memorandum of Association, be limited either to the Amount, if any, unpaid on the Shares respectively held by them, or to such Amount as the Members may respectively undertake by the Memorandum of Association to contribute to the Assets of the Company in the event of its being wound up.

Memorandum of Association of a Company limited by Shares. 20 Vict. c. 47. s. 5.

**7.** Where a Company is formed on the Principle of having the Liability of its Members limited to the Amount unpaid on their Shares, herein-after referred to as a Company limited by Shares, the Memorandum of Association shall contain the following Things; (that is to say,)

(1.) The Name of the proposed Company, with the Addition of the Word "Limited" as the last Word in such Name:

(2.) The Part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered Office of the Company is proposed to be situate:

(3.) The Objects for which the proposed Company is to be established:

(4.) A Declaration that the Liability of the Members is limited:

(5.) The Amount of Capital with which the Company proposes to be registered divided into Shares of a certain fixed Amount:

Subject to the following Regulations:

(1.) That no Subscriber shall take less than One Share:

(2.) That each Subscriber of the Memorandum of Association shall write opposite to his Name the Number of Shares he takes.

Memorandum of Association of a Company limited by Guarantee.

**8.** Where a Company is formed on the Principle of having the Liability of its Members limited to such Amount as the Members respectively undertake to contribute to the Assets of the Company in the event of the same being wound up, herein-after referred to as a Company limited by Guarantee, the Memorandum of Association shall contain the following Things; (that is to say,)

(1.) The Name of the proposed Company, with the Addition of the Word "Limited" as the last Word in such Name:

(2.) The Part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered Office of the Company is proposed to be situate:

(3.) The Objects for which the proposed Company is to be established:

(4.) A Declaration that each Member undertakes to contribute to the Assets of the Company, in the event of the same being wound up, during the Time that he is a Member, or within *One Year* afterwards, for Payment of the Debts and Liabilities of the Company contracted before the Time at which he ceased to be a Member, and of the Costs, Charges, and Expenses of winding up the Company, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required, not exceeding a specified Amount.

Memorandum of Association of an Unlimited Company. 20 Vict. c. 47. s. 10.

**9.** Where a Company is formed on the Principle of having no Limit placed on the Liability of its Members, herein-after referred to as an Unlimited Company, the Memorandum of Association shall contain the following Things; (that is to say,)

(1.) The Name of the proposed Company:

(2.) The Part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered Office of the Company is proposed to be situate:

(3.) The Objects for which the proposed Company is to be established:

(4.) A Declaration that the Liability of the Members is unlimited.

Stamp, Signature, and Effect of Memorandum of Association. 20 Vict. c. 47. s. 7.

**10.** The Memorandum of Association shall bear the same Stamp as if it were a Deed, and shall be signed by each Subscriber in the Presence of, and be attested by, One Witness at the least, and such Attestation shall be a sufficient Attestation in Scotland as well as in England and Ireland: It shall, when registered, bind the Company and the Members thereof to the same Extent as if each Member had subscribed his Name and affixed his Seal thereto, and there were in such Memorandum contained, on the Part of himself, his Heirs, Executors, and Administrators, a Covenant to observe all the Conditions of such Memorandum, subject to the Provisions of this Act.

Power of certain Companies to alter Memorandum of Association. 20 Vict. c. 47. s. 37.

**11.** Any Company limited by Shares may so far modify the Conditions contained in its Memorandum of Association, if authorized to do so by its Regulations as originally framed, or as altered by special Resolution in manner herein-after mentioned, as to increase its Capital, by the Issue of new Shares of such Amount as it thinks expedient, or to convert its paid-up Shares into Stock, but, save as aforesaid, and save as is herein-after provided in the Case of a Change of Name, no Alteration shall be made by any Company in the Conditions contained in its Memorandum of Association.

Power of Companies to change Name.

**12.** Any Company formed under this Act with the Sanction of a special Resolution of the Company passed in manner herein-after mentioned,

tioned, and with the Approval of the Board of Trade testified in Writing under the Hand of One of its Secretaries or Assistant Secretaries, may change its Name, and upon such Change being made the Registrar shall enter the new Name on the Register in the Place of the former Name, and shall issue a Certificate of Incorporation altered to meet the Circumstances of the Case; but no such Alteration of Name shall affect any Rights or Obligations of the Company, or render defective any legal Proceedings instituted or to be instituted by or against the Company, and any legal Proceedings may be continued or commenced against the Company by its new Name that might have been continued or commenced against the Company by its former Name.

*Articles of Association.*

Regulations to be prescribed by Articles of Association. 20 Vict. c. 47. s. 9.

**13.** The Memorandum of Association may, in the Case of a Company limited by Shares, and shall, in the Case of a Company limited by Guarantee or unlimited, be accompanied, when registered, by Articles of Association signed by the Subscribers to the Memorandum of Association, and prescribing such Regulations for the Company as the Subscribers to the Memorandum of Association deem expedient: Such Articles shall be expressed in separate Paragraphs, numbered arithmetically: They may adopt all or any of the Provisions contained in the Table marked A. in the First Schedule hereto: They shall, in the Case of a Company, whether limited by Guarantee or unlimited, that has a Capital divided into Shares, state the Amount of Capital with which the Company proposes to be registered; and in the Case of a Company, whether limited by Guarantee or unlimited, that has not a Capital divided into Shares, state the Number of Members with which the Company proposes to be registered, for the Purpose of enabling the Registrar to determine the Fees payable on Registration: In a Company limited by Guarantee or unlimited and having a Capital divided into Shares, each Subscriber shall take One Share at the least, and shall write opposite to his Name in the Memorandum of Association the Number of Shares he takes.

Application of Table A. 20 Vict. c. 47. s. 9.

**14.** In the Case of a Company limited by Shares, if the Memorandum of Association is not accompanied by Articles of Association, or in so far as such Articles do not exclude or modify the Regulations contained in the Table marked A. in the First Schedule hereto, such last-mentioned Regulations shall, so far as the same are applicable, be deemed to be the Regulations of the Company in the same Manner and to the same Extent as if they had been inserted in Articles of Association, and such Articles had been duly registered.

 **15.** The

Stamp, Signature, and Effect of Articles of Association. 20 Vict. c. 47. s. 11.

**15.** The Articles of Association shall be printed, they shall bear the same Stamp as if they were contained in a Deed, and shall be signed by each Subscriber in the Presence of, and be attested by, One Witness at the least, and such Attestation shall be a sufficient Attestation in Scotland as well as in England and Ireland: When registered, they shall bind the Company and the Members thereof to the same Extent as if each Member had subscribed his Name and affixed his Seal thereto, and there were in such Articles contained a Covenant on the Part of himself, his Heirs, Executors, and Administrators, to conform to all the Regulations contained in such Articles, subject to the Provisions of this Act; and all Monies payable by any Member to the Company, in pursuance of the Conditions and Regulations of the Company, or any of such Conditions or Regulations, shall be deemed to be a Debt due from such Member to the Company, and in England and Ireland to be in the Nature of a Specialty Debt.

*General Provisions.*

Registration of Memorandum of Association and Articles of Association, with Fees as in Table B. 20 Vict. c. 47. s. 12.

**16.** The Memorandum of Association and the Articles of Association, if any, shall be delivered to the Registrar of Joint Stock Companies herein-after mentioned, who shall retain and register the same: There shall be paid to the Registrar by a Company having a Capital divided into Shares, in respect of the several Matters mentioned in the Table marked B. in the First Schedule hereto, the several Fees therein specified, or such smaller Fees as the Board of Trade may from Time to Time direct; and by a Company not having a Capital divided into Shares, in respect of the several Matters mentioned in the Table marked C. in the First Schedule hereto, the several Fees therein specified, or such smaller Fees as the Board of Trade may from Time to Time direct: All Fees paid to the said Registrar in pursuance of this Act shall be paid into the Receipt of Her Majesty's Exchequer, and be carried to the Account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

Effect of Registration. 20 Vict. c. 47. s. 13. 21 Vict. c. 14. s. 4.

**17.** Upon the Registration of the Memorandum of Association, and of the Articles of Association in Cases where Articles of Association are required by this Act or by the Desire of the Parties to be registered, the Registrar shall certify under his Hand that the Company is incorporated, and in the Case of a Limited Company that the Company is limited: The Subscribers of the Memorandum of Association, together with such other Persons as may from Time to Time become Members of the Company, shall thereupon be a Body Corporate by the Name contained in the Memorandum of Association, capable forthwith of exercising all the Functions of an incorporated Company, and having perpetual Succession and a Common Seal, with Power to hold Lands, but with such Liability on the

Part

Part of the Members to contribute to the Assets of the Company in the event of the same being wound up as is herein-after mentioned: A Certificate of the Incorporation of any Company given by the Registrar shall be conclusive Evidence that all the Requisitions of this Act in respect of Registration have been complied with.

Copies of Memorandum and Articles to be given to Members. 20 Vict. c. 47. s. 27. 21 Vict. c. 14. s. 10.

**18.** A Copy of the Memorandum of Association, having annexed thereto the Articles of Association, if any, shall be forwarded to every Member, at his Request, on Payment of the Sum of *One Shilling* or such less Sum as may be prescribed by the Company for each Copy; and if any Company makes default in forwarding a Copy of the Memorandum of Association and Articles of Association, if any, to a Member, in pursuance of this Section, the Company so making default shall for each Offence incur a Penalty not exceeding *One Pound*.

Prohibition against Identity of Names in Companies. 20 Vict. c. 47. s. 6.

**19.** No Company shall be registered under a Name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a Case where such subsisting Company is in the Course of being dissolved and testifies its Consent in such Manner as the Registrar requires; and if any Company, through Inadvertence or otherwise, is, without such Consent as aforesaid, registered by a Name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the Sanction of the Registrar, change its Name, and upon such Change being made the Registrar shall enter the new Name on the Register in the Place of the former Name, and shall issue a Certificate of Incorporation altered to meet the Circumstances of the Case; but no such Alteration of Name shall affect any Rights or Obligations of the Company, or render defective any legal Proceedings instituted or to be instituted by or against the Company, and any legal Proceedings may be continued or commenced against the Company by its new Name that might have been continued or commenced against the Company by its former Name.

Prohibition against certain Companies holding Land. 20 Vict. c. 47. s. 38.

**20.** No Company formed for the Purpose of promoting Art, Science, Religion, Charity, or any other like Object, not involving the Acquisition of Gain by the Company or by the individual Members thereof, shall, without the Sanction of the Board of Trade, hold more than *Two* Acres of Land; but the Board of Trade may, by Licence under the Hand of One of their Principal Secretaries or Assistant Secretaries, empower any such Company to hold Lands in such Quantity and subject to such Conditions as they think fit.

## PART II.

### Distribution of Capital and Liability of Members of Companies and Associations under this Act.

### *Distribution of Capital.*

Nature of Interest in Company. 20 Vict. c. 47. s. 15.

**21.** The Shares or other Interest of any Member in a Company under this Act, shall be Personal Estate, capable of being transferred in manner provided by the Regulations of the Company, and shall not be of the Nature of Real Estate, and each Share shall in the Case of a Company having a Capital divided into Shares, be distinguished by its appropriate Number.

Definition of "Member." 20 Vict. c. 47. ss. 8. 19.

**22.** The Subscribers of the Memorandum of Association of any Company under this Act shall be deemed to have agreed to become Members of the Company whose Memorandum they have subscribed, and upon the Registration of the Company shall be entered as Members on the Register of Members herein-aftermentioned; and every other Person who has agreed to become a Member of a Company under this Act, and whose Name is entered on the Register of Members, shall be deemed to be a Member of the Company.

Transfer by Personal Representative.

**23.** Any Transfer of the Share or other Interest of a deceased Member of a Company under this Act, made by his Personal Representative, shall, notwithstanding such Personal Representative may not himself be a Member, be of the same Validity as if he had been a Member at the Time of the Execution of the Instrument of Transfer.

Register of Members. 20 Vict. c. 47. ss. 16, 17.

**24.** Every Company under this Act shall cause to be kept in One or more Books a Register of its Members, and there shall be entered therein the following Particulars:

(1.) The Names and Addresses, and the Occupations, if any, of the Members of the Company, with the Addition, in the Case of a Company having a Capital divided into Shares, of a Statement of the Shares held by each Member, distinguishing each Share by its Number: And of the Amount paid or agreed to be considered as paid on the Shares of each Member:

(2.) The Date at which the Name of any Person was entered in the Register as a Member:

(3.) The Date at which any Person ceased to be a Member:

And any Company acting in contravention of this Section shall incur a Penalty not exceeding *Five Pounds* for every Day during which its Default in complying with the Provisions of this Section continues.

**25.** Every

Annual List of Members. 20 Vict. c. 47. s. 17.

**25.** Every Company under this Act, and having a Capital divided into Shares, shall make, *once* at least in every Year, a List of all Persons who, on the *Fourteenth* Day succeeding the Day on which the Ordinary General Meeting, or if there is more than One Ordinary Meeting in each Year, the First of such Ordinary General Meetings is held, are Members of the Company; and such List shall state the Names, Addresses, and Occupations of all the Members therein mentioned, and the Number of Shares held by each of them, and shall contain a Summary specifying the following Particulars:

(1.) The Amount of the Capital of the Company, and the Number of Shares into which it is divided:

(2.) The Number of Shares taken from the Commencement of the Company up to the Date of the Summary:

(3.) The Amount of Calls made on each Share:

(4.) The total Amount of Calls received:

(5.) The total Amount of Calls unpaid:

(6.) The total Amount of Shares forfeited:

The above List and Summary shall be contained in a separate Part of the Register, and shall be completed within *Seven* Days after such *Fourteenth* Day as is mentioned in this Section, and a Copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Penalty on Company not keeping a proper Register. 20 Vict. c. 47. s. 18.

**26.** If any Company under this Act, and having a Capital divided into Shares, makes default in complying with the Provisions of this Act with respect to forwarding such List of Members or Summary as is herein-before mentioned to the Registrar such Company shall incur a Penalty not exceeding *Five Pounds* for every Day during which such Default continues.

Company to give Notice of Conversion of Capital into Stock. 21 Vict. c. 14. s. 6.

**27.** Every Company under this Act, having a Capital divided into Shares, that has converted any Portion of its Capital into Stock shall give Notice of such Conversion, specifying the Shares so converted, to the Registrar of Joint Stock Companies.

Effect of Conversion of Shares into Stock. 21 Vict. c. 14. s. 7.

**28.** Where any Company under this Act, and having a Capital divided into Shares, has converted any Portion of its Capital into Stock, and given Notice of such Conversion to the Registrar, all the Provisions of this Act which are applicable to Shares only shall cease as to so much of the Capital as is converted into Stock; and the Register of Members hereby required to be kept by the Company, and the List of Members to be forwarded to the Registrar, shall show the Amount of Stock held by each Member in the List instead of the Amount of Shares and the Particulars relating to Shares herein-before required.

Entry of Trusts on Register. 20 Vict. c. 47. s. 19. 21 Vict. c. 49. s. 15.

**29.** No Notice of any Trust, expressed, implied, or constructive, shall be entered on the Register, or be receivable by the Registrar, in the Case of Companies under this Act and registered in England or Ireland.

Certificate of Shares or Stock. 20 Vict. c. 47. s. 21.

**30.** A Certificate, under the Common Seal of the Company, specifying any Share or Shares or Stock held by any Member of a Company, shall be primâ facie Evidence of the Title of the Member to the Share or Shares or Stock therein specified.

Inspection of Register. 20 Vict. c. 47. s. 23.

**31.** The Register of Members, commencing from the Date of the Registration of the Company, shall be kept at the registered Office of the Company herein-after mentioned: Except when closed as herein-after mentioned, it shall during Business Hours, but subject to such reasonable Restrictions as the Company in General Meeting may impose, so that not less than *Two* Hours in each Day be appointed for Inspection, be open to the Inspection of any Member gratis, and to the Inspection of any other Person on the Payment of *One Shilling*, or such less Sum as the Company may prescribe, for each Inspection; and every such Member or other Person may require a Copy of such Register, or of any Part thereof, or of such List or Summary of Members as is herein-before mentioned, on Payment of *Sixpence* for every Hundred Words required to be copied: If such Inspection or Copy is refused, the Company shall incur for each Refusal a Penalty not exceeding *Two Pounds*, and a further Penalty not exceeding *Two Pounds* for every Day during which such Refusal continues; and in addition to the above Penalty, as respects Companies registered in England and Ireland, any Judge sitting in Chambers, or the Vice Warden of the Stannaries, in the Case of Companies subject to his Jurisdiction, may by Order compel an immediate Inspection of the Register.

Power to close Register. 20 Vict. c. 47. s. 24.

**32.** Any Company under this Act may, upon giving Notice by Advertisement in some Newspaper circulating in the District in which the registered Office of the Company is situated, close the Register of Members for any Time or Times not exceeding in the whole *Thirty* Days in each Year.

Notice of Increase of Capital and of Members to be given to Registrar. 20 Vict. c. 47. s. 37.

**33.** Where a Company has a Capital divided into Shares, whether such Shares may or may not have been converted into Stock, Notice of any Increase in such Capital beyond the registered Capital, and where a Company has not a Capital divided into Shares, Notice of any Increase in the Number of Members beyond the registered Number, shall be given to the Registrar in the Case of an Increase of Capital, within *Fifteen* Days from the Date of the passing of the Resolution by which such Increase has been authorized, and

and in the Case of an Increase of Members within *Fifteen* Days from the Time at which such Increase of Members has been resolved on or has taken place, and the Registrar shall forthwith record the Amount of such Increase of Capital or Members: If such Notice is not given within the Period aforesaid the Company in default shall incur a Penalty not exceeding *Five Pounds* for every Day during which such Neglect to give Notice continues.

Remedy for improper Entry or Omission of Entry in Register. 20 Vict. c. 47. s. 25. 21 Vict. c. 14. s. 9.

**34.** If the Name of any Person is, without sufficient Cause, entered in or omitted from the Register of Members of any Company under this Act, or if Default is made or unnecessary Delay takes place in entering on the Register the Fact of any Person having ceased to be a Member of the Company, the Person or Member aggrieved, or any Member of the Company, or the Company itself, may, as respects Companies registered in England or Ireland, by Motion in any of Her Majesty's Superior Courts of Law or Equity, or by Application to a Judge sitting in Chambers, or to the Vice Warden of the Stannaries in the Case of Companies subject to his Jurisdiction, and as respects Companies registered in Scotland by Summary Petition to the Court of Session, or in such other Manner as the said Courts may direct, apply for an Order of the Court that the Register may be rectified; and the Court may either refuse such Application, with or without Costs, to be paid by the Applicant, or it may, if satisfied of the Justice of the Case, make an Order for the Rectification of the Register, and may direct the Company to pay all the Costs of such Motion, Application, or Petition, and any Damages the Party aggrieved may have sustained: The Court may in any Proceeding under this Section decide on any Question relating to the Title of any Person who is a Party to such Proceeding to have his Name entered in or omitted from the Register, whether such Question arises between Two or more Members or alleged Members, or between any Members or alleged Members and the Company, and generally the Court may in any such Proceeding decide any Question that it may be necessary or expedient to decide for the Rectification of the Register; provided that the Court, if a Court of Common Law, may direct an Issue to be tried, in which any Question of Law may be raised, and a Writ of Error or Appeal, in the Manner directed by "The Common Law Procedure Act, 1854," shall lie.

Notice to Registrar of Rectification of Register.

**35.** Whenever any Order has been made rectifying the Register, in the Case of a Company hereby required to send a List of its Members to the Registrar, the Court shall, by its Order, direct that due Notice of such Rectification be given to the Registrar.

Register to be Evidence. 20 Vict. s. 47. s. 26.

**36.** The Register of Members shall be primâ facie Evidence of any Matters by this Act directed or authorized to be inserted therein.

*Liability of Members.*

Liability of present and past Members of Company. 20 Vict. c. 47. s. 62.

**37.** In the event of a Company formed under this Act being wound up, every present and past Member of such Company shall be liable to contribute to the Assets of the Company to an Amount sufficient for Payment of the Debts and Liabilities of the Company, and the Costs, Charges, and Expenses of the Winding-up, and for the Payment of such Sums as may be required for the Adjustment of the Rights of the Contributories amongst themselves, with the Qualifications following; (that is to say,)

(1.) No past Member shall be liable to contribute to the Assets of the Company if he has ceased to be a Member for a Period of *One Year* or upwards prior to the Commencement of the Winding-up:

(2.) No past Member shall be liable to contribute in respect of any Debt or Liability of the Company contracted after the Time at which he ceased to be a Member:

(3.) No past Member shall be liable to contribute to the Assets of the Company unless it appears to the Court that the existing Members are unable to satisfy the Contributions required to be made by them in pursuance of this Act:

(4.) In the Case of a Company limited by Shares, no Contribution shall be required from any Member exceeding the Amount, if any, unpaid on the Shares in respect of which he is liable as a present or past Member:

(5.) In the Case of a Company limited by Guarantee, no Contribution shall be required from any Member exceeding the Amount of the Undertaking entered into on his Behalf by the Memorandum of Association:

(6.) Nothing in this Act contained shall invalidate any Provision contained in any Policy of Insurance or other Contract whereby the Liability of individual Members upon any such Policy or Contract is restricted, or whereby the Funds of the Company are alone made liable in respect of such Policy or Contract:

(7.) No Sum due to any Member of a Company, in his Character of a Member, by way of Dividends, Profits, or otherwise, shall be deemed to be a Debt of the Company, payable to such Member in a Case of Competition between himself and any other Creditor not being a Member of the Company; but any such Sum may be taken into account, for the Purposes of the final Adjustment of the Rights of the Contributories amongst themselves.

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PART III.

## PART III.

### Management and Administration of Companies and Associations under this Act.

*Provisions for Protection of Creditors.*

Registered Office of Company. 20 Vict. c. 47. s. 28.

**38.** Every Company under this Act shall have a registered Office to which all Communications and Notices may be addressed: If any Company under this Act carries on Business without having such an Office, it shall incur a Penalty not exceeding *Five Pounds* for every Day during which Business is so carried on.

Notice of Situation of registered Office. 20 Vict. c. 47. s. 29.

**39.** Notice of the Situation of such registered Office, and of any Change therein, shall be given to the Registrar, and recorded by him: Until such Notice is given the Company shall not be deemed to have complied with the Provisions of this Act with respect to having a registered Office.

Publication of Name by a Limited Company. 20 Vict. c. 47. s. 30.

**40.** Every Limited Company under this Act, whether limited by Shares or by Guarantee, shall paint or affix, and shall keep painted or affixed, its Name on the Outside of every Office or Place in which the Business of the Company is carried on, in a conspicuous Position, in Letters easily legible, and shall have its Name engraven in legible Characters on its Seal, and shall have its Name mentioned in legible Characters in all Notices, Advertisements, and other official Publications of such Company, and in all Bills of Exchange, Promissory Notes, Endorsements, Cheques, and Orders for Money or Goods purporting to be signed by or on behalf of such Company, and in all Bills of Parcels, Invoices, Receipts, and Letters of Credit of the Company.

Penalties on Nonpublication of Name. 20 Vict. c. 47. s. 31.

**41.** If any Limited Company under this Act does not paint or affix, and keep painted or affixed, its Name in manner directed by this Act, it shall be liable to a Penalty not exceeding *Five Pounds* for not so painting or affixing its Name, and for every Day during which such Name is not so kept painted or affixed; and if any Officer of such Company, or any Person on its Behalf, uses any Seal purporting to be a Seal of the Company whereon its Name is not so engraven as aforesaid, or issues or authorizes the Issue of any Notice, Advertisement, or other official Publication of such Company, or signs or authorizes to be signed on behalf of such Company any Bill of Exchange, Promissory Note, Endorsement, Cheque, Order for Money or Goods, or issues or authorizes to be issued any Bill of Parcels, Invoice, Receipt, or Letter of Credit of the Company, wherein its Name is not mentioned in manner aforesaid, he shall be liable to a Penalty of *Fifty Pounds*, and shall further be personally liable to the Holder of any such Bill of Exchange, Promissory Note, Cheque, or Order for Money or Goods, for the Amount thereof, unless the same is duly paid by the Company.

 **42.** Every

Register of Mortgages.

**42.** Every Limited Company under this Act shall keep a Register of all Mortgages and Charges specifically affecting Property of the Company, and shall enter in such Register in respect of each Mortgage or Charge a short Description of the Property mortgaged or charged, the Amount of Charge created, and the Names of the Mortgagees or Persons entitled to such Charge: If any Property of the Company is mortgaged without such Entry as aforesaid being made, every Director or other Officer of the Company who is privy to such Mortgage shall incur a Penalty not exceeding *Fifty Pounds*: The Register of Mortgages required by this Section shall be open to Inspection by any Creditor or Member of the Company at all reasonable Times; and if such Inspection is refused, any Officer of the Company refusing the same shall incur a Penalty not exceeding *Five Pounds*, and a further Penalty not exceeding *Two Pounds* for every Day during which such Refusal continues; and in addition to the above Penalty, as respects Companies registered in England and Ireland, any Judge sitting in Chambers, or the Vice Warden of the Stannaries in the Case of Companies subject to his Jurisdiction, may by Order compel an immediate Inspection of the Register.

Limited Banking and Insurance Companies to publish Statement entered in Schedule. 22 Vict. c. 91. s. 4.

**43.** Every Limited Banking Company and every Insurance Company under this Act shall, before it commences Business, and also on the *First Monday in February* and the *First Monday in August* in every Year during which it carries on Business, make a Statement in the Form marked D. in the First Schedule hereto, or as near thereto as Circumstances will admit, and a Copy of such Statement shall be put up in a conspicuous Place in the registered Office of the Company, and in every Branch Office or Place where the Business of the Company is carried on, and if Default is made in compliance with the Provisions of this Section the Company shall be liable to a Penalty not exceeding *Five Pounds* for every Day which such Default continues.

List of Directors to be sent to Registrar.

**44.** Every Company under this Act, and not having a Capital divided into Shares, shall keep at its registered Office a Register containing the Names and Addresses and the Occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a Copy of such Register, and shall from Time to Time notify to the Registrar any Change that takes place in such Directors or Managers.

Penalty on Company not keeping Register of Directors.

**45.** If any Company under this Act, and not having a Capital divided into Shares, makes default in keeping a Register of its Directors or Managers, or in sending a Copy of such Register to the Registrar in compliance with the foregoing Rules, or in notifying to the Registrar any Change that takes place in such Directors or Managers, such delinquent Company shall incur a Penalty not exceeding *Five Pounds* for every Day during which such Default continues.

**46.** A Promissory

Promissory Notes and Bills of Exchange. 20 Vict. c. 47. s. 43.

**46.** A Promissory Note or Bill of Exchange shall be deemed to have been made, accepted, or endorsed on behalf of any Company under this Act, if made, accepted, or endorsed in the Name of the Company by any Person acting under the Authority of the Company, or if made, accepted, or endorsed by or on behalf or on account of the Company, by any Person acting under the Authority of the Company.

Prohibition against carrying on Business with less than Seven Members. 20 Vict. c. 47. s. 39.

**47.** If any Company under this Act carries on Business when the Number of its Members is less than *Seven* for a Period of *Six* Months after the Number has been so reduced, every Person who is a Member of such Company during the Time that it so carries on Business after such Period of *Six* Months, and is cognizant of the Fact that it is so carrying on Business with fewer than *Seven* Members, shall be severally liable for the Payment of the whole Debts of the Company contracted during such Time, and may be sued for the same, without the Joinder in the Action or Suit of any other Member.

*Provisions for Protection of Members.*

General Meeting of Company. 20 Vict. c. 47. s. 32.

**48.** A General Meeting of every Company under this Act shall be held once at the least in every Year.

Power to alter Regulations by Special Resolution. 20 Vict. c. 47. s. 33.

**49.** Subject to the Provisions of this Act, and to the Conditions contained in the Memorandum of Association, any Company formed under this Act may, in General Meeting, from Time to Time, by passing a Special Resolution in manner herein-after mentioned, alter all or any of the Regulations of the Company, as contained in the Articles of Association or in the Table marked A. in the First Schedule, where such Table is applicable to the Company, or make new Regulations to the Exclusion of or in addition to all or any of the Regulations of the Articles of Association or of Table A.; and any Regulations so made by Special Resolution shall be deemed to be Regulations of the Company of the same Validity as if they had been originally contained in the Articles of Association, and shall be subject in like Manner to be altered or modified by any subsequent Special Resolution.

Definition of Special Resolution. 20 Vict. c. 47. s. 34.

**50.** A Resolution passed by a Company under this Act shall be deemed to be special whenever a Resolution has been passed by a Majority of not less than *Three Fourths* of such Members of the Company for the Time being entitled, according to the Regulations of the Company, to vote as may be present, in Person or by Proxy (in Cases where by the Regulations of the Company Proxies are allowed), at any General Meeting of which Notice specifying the Intention to propose such Resolution has been duly given, and such

Resolution has been confirmed by a Majority of such Members for the Time being entitled, according to the Regulations of the Company, to vote as may be present, in Person or by Proxy, at a subsequent General Meeting, of which Notice has been duly given, and held at an Interval of not less than *Fourteen* Days, nor more than *One Month* from the Date of the Meeting at which such Resolution was first passed: At any Meeting mentioned in this Section, unless a Poll is demanded by at least *Five* Members, a Declaration of the Chairman that the Resolution has been carried shall be deemed conclusive Evidence of the Fact, without Proof of the Number or Proportion of the Votes recorded in favour of or against the same: Notice of any Meeting shall, for the Purposes of this Section, be deemed to be duly given and the Meeting to be duly held, whenever such Notice is given and Meeting held in manner prescribed by the Regulations of the Company: In computing the Majority under this Section, when a Poll is demanded, Reference shall be had to the Number of Votes to which each Member is entitled by the Regulations of the Company.

Provision where no Regulations as to Meetings.

**51.** In default of any Regulations as to voting every Member shall have One Vote, and in default of any Regulations as to summoning General Meetings a Meeting shall be held to be duly summoned of which *Seven* Days Notice in Writing has been served on every Member in manner in which Notices are required to be served by the Table marked A. in the First Schedule hereto, and in default of any Regulations as to the Persons to summon Meetings *Five* Members shall be competent to summon the same, and in default of any Regulations as to who is to be Chairman of such Meeting, it shall be competent for any Person elected by the Members present to preside.

Registry of Special Resolutions. 20 Vict. c. 47. s. 35.

**52.** A Copy of any Special Resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies, and be recorded by him: If such Copy is not so forwarded within *Fifteen* Days from the Date of the Confirmation of the Resolution, the Company shall incur a Penalty not exceeding *Two Pounds* for every Day after the Expiration of such *Fifteen* Days during which such Copy is omitted to be forwarded.

Copies of Special Resolutions. 20 Vict. c 47. s. 36.

**53.** Where Articles of Association have been registered, a Copy of every Special Resolution for the Time being in force shall be annexed to or embodied in every Copy of the Articles of Association that may be issued after the passing of such Resolution: Where no Articles of Association have been registered, a Copy of any Special Resolution shall be forwarded in Print to any Member requesting the same on Payment of *One Shilling*, or such less Sum as

as the Company may direct: And if any Company makes Default in complying with the Provisions of this Section, it shall incur a Penalty not exceeding *One Pound* for each Copy in respect of which such Default is made.

Execution of Deeds abroad. 20 Vict. c. 47. s. 42.

**54.** Any Company under this Act may, by Instrument in Writing under its Common Seal, empower any Person, either generally or in respect of any specified Matters, as its Attorney, to execute Deeds on its Behalf in any Place not situate in the United Kingdom; and every Deed signed by such Attorney, on behalf of the Company, and under his Seal, shall be binding on the Company and have the same Effect as if it were under the Common Seal of the Company.

Examination of Affairs of Company by Inspectors. 20 Vict. c. 47. s. 48. 21 Vict. c. 49. s. 14.

**55.** The Board of Trade may appoint One or more competent Inspectors to examine into the Affairs of any Company under this Act, and to report thereon, in such Manner as the Board may direct, upon the Applications following; (that is to say,)

(1.) In the Case of a Banking Company that has a Capital divided into Shares, upon the Application of Members holding not less than *One Third* Part of the whole Shares of the Company for the Time being issued:

(2.) In the Case of any other Company that has a Capital divided into Shares, upon the Application of Members holding not less than *One Fifth* Part of the whole Shares of the Company for the Time being issued:

(3.) In the Case of any Company not having a Capital divided into Shares upon the Application of Members being in Number not less than *One Fifth* of the whole Number of Persons for the Time being entered on the Register of the Company as Members.

Application for Inspection to be supported by Evidence.

**56.** The Application shall be supported by such Evidence as the Board of Trade may require for the Purpose of showing that the Applicants have good Reason for requiring such Investigation to be made, and that they are not actuated by malicious Motives in instituting the same; the Board of Trade may also require the Applicants to give Security for Payment of the Costs of the Inquiry before appointing any Inspector or Inspectors.

Inspection of Books. 20 Vict. c. 47. s. 49.

**57.** It shall be the Duty of all Officers and Agents of the Company to produce for the Examination of the Inspectors all Books and Documents in their Custody or Power: Any Inspector may examine upon Oath the Officers and Agents of the Company in relation to its

Business, and may administer such Oath accordingly: If any Officer or Agent refuses to produce any Book or Document hereby directed to be produced, or to answer any Question relating to the Affairs of the Company, he shall incur a Penalty not exceeding *Five Pounds* in respect of each Offence.

Result of Examination how dealt with. 20 Vict. c. 47. s. 50.

**58.** Upon the Conclusion of the Examination the Inspectors shall report their Opinion to the Board of Trade: Such Report shall be written or printed, as the Board of Trade directs: A Copy shall be forwarded by the Board of Trade to the registered Office of the Company, and a further Copy shall, at the Request of the Members upon whose Application the Inspection was made, be delivered to them or to any One or more of them: All Expenses of and incidental to any such Examination as aforesaid shall be defrayed by the Members upon whose Application the Inspectors were appointed.

Power of Company to appoint Inspectors. 20 Vict. c. 47. s. 51.

**59.** Any Company under this Act may by Special Resolution appoint Inspectors for the Purpose of examining into the Affairs of the Company: The Inspectors so appointed shall have the same Powers and perform the same Duties as Inspectors appointed by the Board of Trade, with this Exception, that, instead of making their Report to the Board of Trade, they shall make the same in such Manner and to such Persons as the Company in General Meeting directs; and the Officers and Agents of the Company shall incur the same Penalties, in case of any Refusal to produce any Book or Document hereby required to be produced to such Inspectors, or to answer any Question, as they would have incurred if such Inspector had been appointed by the Board of Trade.

Report of Inspectors to be Evidence. 20 Vict. c. 47. s. 52.

**60.** A Copy of the Report of any Inspectors appointed under this Act, authenticated by the Seal of the Company into whose Affairs they have made Inspection, shall be admissible in any legal Proceeding, as Evidence of the Opinion of the Inspectors in relation to any Matter contained in such Report.

*Notices.*

Service of Notices on Company. 20 Vict. c. 47. s. 53.

**61.** Any Summons, Notice, Order, or other Document required to be served upon the Company may be served by leaving the same, or sending it through the Post in a prepaid Letter addressed to the Company, at their registered Office.

Rules as to Notices by Letter. 20 Vict. c. 47. s. 54.

**62.** Any Document to be served by Post on the Company shall be posted in such Time as to admit of its being delivered in the due Course of Delivery within the Period (if any) prescribed for the Service thereof; and in proving Service of such Document it shall be sufficient

to

to prove that such Document was properly directed, and that it was put as a prepaid Letter into the Post Office.

Authentication of Notices of Company. 20 Vict. c. 47. s. 55.

**63.** Any Summons, Notice, Order, Writ, or Proceeding requiring Authentication by the Company, may be signed by any Director, Secretary, or other authorized Officer of the Company, and need not be under the Common Seal of the Company, and the same may be in Writing or in Print, or partly in Writing and partly in Print.

*Legal Proceedings.*

Recovery of Penalties. 20 Vict. c. 47. s. 56.

**64.** All Offences under this Act made punishable by any Penalty may be prosecuted summarily before Two or more Justices, as to England, in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three, intituled "An Act to "facilitate the Performance of the Duties of Justices of the Peace out "of Sessions within England and Wales with respect to summary "Convictions and Orders," or any Act amending the same; and as to Scotland, before Two or more Justices or the Sheriff of the County, in manner directed by the Act passed in the Session of Parliament holden in the Seventeenth and Eighteenth Years of the Reign of Her Majesty Queen Victoria, Chapter One hundred and four, intituled "An Act to amend and consolidate the Acts relating to "Merchant Shipping," or any Act amending the same, as regards Offences in Scotland against that Act, not being Offences by that Act described as Felonies or Misdemeanors; and as to Ireland, in manner directed by the Act passed in the Session holden in the Fourteenth and Fifteenth Years of the Reign of Her Majesty Queen Victoria, Chapter Ninety-three, intituled "An Act to consolidate "and amend the Acts regulating the Proceedings of Petty Sessions "and the Duties of Justices of the Peace out of Quarter Sessions in "Ireland," or any Act amending the same.

Application of Penalties. 20 Vict. c. 47. s. 56.

**65.** The Justices or Sheriff imposing any Penalty under this Act may direct the whole or any Part thereof to be applied in or towards Payment of the Costs of the Proceedings, or in or towards the rewarding the Person upon whose Information or at whose Suit such Penalty has been recovered; and, subject to such Direction, all Penalties shall be paid into the Receipt of Her Majesty's Exchequer, in such Manner as the Treasury may direct, and shall be carried to and form Part of the Consolidated Fund of the United Kingdom.

Evidence of Proceedings at Meetings. 20 Vict. c. 47. s. 40.

**66.** Every Company under this Act shall cause Minutes of all Resolutions and Proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in Cases where there are Directors or Managers, to be duly entered in

8 Vict. c. 16. ss. 98. 99.

Books to be from Time to Time provided for the Purpose; and any such Minute as aforesaid, if purporting to be signed by the Chairman of the Meeting at which such Resolutions were passed or Proceedings had, or by the Chairman of the next succeeding Meeting, shall be received as Evidence in all legal Proceedings; and until the contrary is proved, every General Meeting of the Company or Meeting of Directors or Managers in respect of the Proceedings of which Minutes have been so made, shall be deemed to have been duly held and convened, and all Resolutions passed thereat or Proceedings had, to have been duly passed and had, and all Appointments of Directors, Managers, or Liquidators shall be deemed to be valid, and all Acts done by such Directors, Managers, or Liquidators shall be valid, notwithstanding any Defect that may afterwards be discovered in their Appointments or Qualifications.

Jurisdiction of Vice-Warden of Stannaries.

**67.** In the Case of Companies under this Act, and engaged in working Mines within and subject to the Jurisdiction of the Stannaries, the Court of the Vice-Warden of the Stannaries shall have and exercise the like Jurisdiction and Powers, as well on the Common Law as on the Equity Side thereof, which it now possesses by Custom, Usage, or Statute in the Case of unincorporated Companies, but only so far as such Jurisdiction or Powers are consistent with the Provisions of this Act and with the Constitution of Companies as prescribed or required by this Act; and for the Purpose of giving fuller Effect to such Jurisdiction in all Actions, Suits, or legal Proceedings instituted in the said Court, in Causes or Matters whereof the Court has Cognizance, all Process issuing out of the same, and all Orders, Rules, Demands, Notices, Warrants, and Summonses required or authorized by the Practice of the Court to be served on any registered Company, or any Member or Contributory thereof, or any Officer, Agent, Director, Manager, or Servant thereof, may be served in any Part of England without any Special Order of the Vice-Warden for that Purpose, and all Decrees, Orders, and Judgments of the said Court made or pronounced in such Causes or Matters may be enforced in the same Manner in which Decrees, Orders, and Judgments of the Court may now by Law be enforced, whether within or beyond the local Limits of the Stannaries; and the Seal of the said Court, and the Signature of the Registrar thereof, shall be judicially noticed by all other Courts and Judges in England, and shall require no other Proof than the Production thereof: The Registrar of the said Court, or the Assistant Registrar, in making Sales under any Decree or Order of the Court shall be entitled to the same Privilege of selling by Auction or Competition without a Licence, and without being liable to Duty, as a Judge of the Court of Chancery is entitled to in pursuance of the Acts in that Behalf.

**68.** Where

Provision as to Costs in Actions brought by certain Limited Companies. 21 Vict. c. 14. s. 24.

**68.** Where a Limited Company is Plaintiff or Pursuer in any Action, Suit, or other legal Proceeding, any Judge having Jurisdiction in the Matter may, if it appears by any credible Testimony that there is Reason to believe that if the Defendant be successful in his Defence the Assets of the Company will be insufficient to pay his Costs, require sufficient Security to be given for such Costs, and may stay all Proceedings until such Security is given.

Declaration in Action against Members.

**69.** In any Action or Suit brought by the Company against any Member to recover any Call or other Monies due from such Member in his Character of Member, it shall not be necessary to set forth the special Matter, but it shall be sufficient to allege that the Defendant is a Member of the Company, and is indebted to the Company in respect of a Call made or other Monies due whereby an Action or Suit hath accrued to the Company.

*Alteration of Forms.*

Board of Trade may alter Forms in Schedule. 20 Vict. c. 47. s. 85. 21 Vict. c. 14. s. 22.

**70.** The Forms set forth in the Second Schedule hereto, or Forms as near thereto as Circumstances admit, shall be used in all Matters to which such Forms refer; the Board of Trade may from Time to Time make such Alterations in the Tables and Forms contained in the First Schedule hereto, so that it does not increase the Amount of Fees payable to the Registrar in the said Schedule mentioned, and in the Forms in the Second Schedule, or make such Additions to the last-mentioned Forms, as it deems requisite: Any such Table or Form, when altered, shall be published in the London Gazette, and upon such Publication being made, such Table or Form shall have the same Force as if it were included in the Schedule to this Act, but no Alteration made by the Board of Trade in the Table marked A. contained in the First Schedule shall affect any Company registered prior to the Date of such Alteration, or repeal, as respects such Company, any Portion of such Table.

*Arbitrations.*

Power for Companies to refer Matters to Arbitration.

**71.** Any Two or more Companies under this Act may from Time to Time, by Writing under their respective Common Seals, agree to refer and may refer to Arbitration, in accordance with "The Railway Companies Arbitration Act, 1859," any existing or future Differences, Questions, or other Matters whatsoever in which they are or may be mutually interested and which they might lawfully settle or dispose of by Agreement between themselves, and may delegate to the Person or Persons to whom the Reference is made Power to settle any Terms or to determine any Matter capable of being lawfully settled or determined by the Companies themselves, or by the Directors or other managing Body of such Companies.

 **72.** All

Provisions of Railway Companies Arbitration Act to apply.

**72.** All the Provisions of "The Railways Companies Arbitration Act, 1859," shall be deemed to apply to Arbitrations between Companies under this Act; and in the Construction of such Provisions, "the Companies" shall be deemed to include Companies under this Act.

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## PART IV.

### Winding up of Companies and Associations under this Act.

*Preliminary.*

Meaning of Contributory. 20 Vict. c. 47. s. 65.

**73.** The Term "Contributory" shall mean every Person liable to contribute to the Assets of a Company under this Act, in the event of the same being wound up: It shall also, in all Proceedings for determining the Persons who are to be deemed Contributories, and in all Proceedings prior to the final Determination of such Persons, include any Person alleged to be a Contributory.

Nature of Liability of Contributory. 21 Vict. c. 14. s. 13.

**74.** The Liability of any Person to contribute to the Assets of a Company under this Act in the event of the same being wound up, shall be deemed to create a Debt (in England and Ireland of the Nature of a Specialty) accruing due from such Person at the Time when his Liability commenced, but payable at the Time or respective Times when Calls are made as herein-after mentioned for enforcing such Liability; and it shall be lawful in the Case of the Bankruptcy of any Contributory to prove against his Estate the estimated Value of his Liability to future Calls, as well as Calls already made.

Contributories in case of Death. 20 Vict. c. 47. s. 65.

**75.** If any Contributory dies either before or after he has been placed on the List of Contributories herein-after mentioned, his Personal Representatives, Heirs, and Devisees shall be liable in a due Course of Administration to contribute to the Assets of the Company in discharge of the Liability of such deceased Contributory, and such Personal Representatives, Heirs, and Devisees shall be deemed to be Contributories accordingly.

Contributories in case of Bankruptcy. 12 & 13 Vict. c. 108. s. 14.

**76.** If any Contributory becomes bankrupt, either before or after he has been placed on the List of Contributories, his Assignees shall be deemed to represent such Bankrupt for all the Purposes of the Winding-up, and shall be deemed to be Contributories accordingly, and may be called upon to admit to Proof against the Estate of such Bankrupt, or otherwise to allow to be paid out of his Assets in due Course of Law, any Monies due from such Bankrupt in respect of his Liability to contribute to the Assets of the Company being wound up; and for the Purposes of this Section any Person who may have taken the Benefit of

of any Act for the Relief of Insolvent Debtors before the Eleventh Day of October One thousand eight hundred and sixty-one shall be deemed to have become bankrupt.

Contributories in case of Marriage. 12 & 13 Vict. c. 108. s. 14.

**77.** If any Female Contributory marries, either before or after she has been placed on the List of Contributories, her Husband shall during the Continuance of the Marriage be liable to contribute to the Assets of the Company the same Sum as she would have been liable to contribute if she had not married, and he shall be deemed to be a Contributory accordingly.

*Winding up by Court.*

Circumstances under which Company may be wound up by Court. 20 Vict. c. 47. s. 67.

**78.** A Company under this Act may be wound up by the Court as herein-after defined, under the following Circumstances; (that is to say,)

(1.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up by the Court:

(2.) Whenever the Company does not commence its Business within a Year from its Incorporation, or suspends its Business for the Space of a whole Year:

(3.) Whenever the Members are reduced in Number to less than *Seven*:

(4.) Whenever the Company is unable to pay its Debts:

(5.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up.

Company when deemed unable to pay its Debts. 20 Vict. c. 47. s. 68.

**79.** A Company under this Act shall be deemed to be unable to pay its Debts,

(1.) Whenever a Creditor, by Assignment or otherwise, to whom the Company is indebted, at Law or in Equity, in a Sum exceeding *Fifty Pounds* then due, has served on the Company, by leaving the same at their registered Office, a Demand under his Hand requiring the Company to pay the Sum so due, and the Company has for the Space of *Three* Weeks succeeding the Service of such Demand neglected to pay such Sum, or to secure or compound for the same to the reasonable Satisfaction of the Creditor:

(2.) Whenever, in England and Ireland, Execution or other Process issued on a Judgment, Decree, or Order obtained in any Court in favour of any Creditor, at Law or in Equity, in any Proceeding instituted by such Creditor against the Company, is returned unsatisfied in whole or in part:

(3.) Whenever, in Scotland, the Induciæ of a Charge for Payment on an Extract Decree, or an Extract registered Bond, or an Extract registered Protest have expired without Payment being made:

(4.) Whenever it is proved to the Satisfaction of the Court that the Company is unable to pay its Debts.

Definition of "the Court." 20 Vict. c. 47. s. 60. 20 & 21 Vict. c. 78. s. 12.

**80.** The Expression "the Court," as used in this Part of this Act, shall mean the following Authorities; (that is to say,)

In the Case of a Company engaged in working any Mine within and subject to the Jurisdiction of the Stannaries,—the Court of the Vice-Warden of the Stannaries, unless the Vice-Warden certifies that in his Opinion the Company would be more advantageously wound up in the Court of Bankruptcy, in which Case "the Court" shall mean the Court of Bankruptcy having Jurisdiction in the Place where the Registered Office of the Company is situate:

In the Case of a Company registered in England that is not engaged in working any such Mine as aforesaid,—the Court of Bankruptcy having Jurisdiction in the Place where the registered Office of the Company is situate:

In the Case of a Company registered in Ireland, the Commissioners of Bankrupt in Ireland:

In all Cases of Companies registered in Scotland the Court of Session in either Division thereof.

Power of Vice-Warden of the Stannaries.

**81.** The Vice-Warden of the Stannaries may direct that a Petition for winding up a Company be heard by him at such Time and at such Place within the Jurisdiction of the Stannaries, or within or near to the Place where the Registered Office of the Company is situated, as he may deem to be convenient to the Parties concerned, or (with the Consent of the Parties concerned) at any Place in England; and all Orders made thereupon shall have the same Force and Effect as if they had been made by the Vice-Warden sitting at Truro or elsewhere within the Jurisdiction of the Court, and all Parties and Persons summoned to attend at the Hearing of any such Petition shall be compellable to give their Attendance before the Vice-Warden by like Process and in like Manner as at the Hearing of any Cause or Matter at the usual Sitting of the said Court; and the Registrar of the Court may, subject to Exception or Appeal to the Vice-Warden as heretofore used, do and exercise such and the like Acts and Powers in the Matter of winding up as he is now used to do and exercise in a Suit on the Equity Side of the said Court.

Application for winding up to be made by Petition. 20 Vict. c. 47. s. 69.

**82.** Any Application to the Court for the winding up of a Company under this Act shall be by Petition; it may be presented by the Company, or by any One or more Creditor or Creditors, Contributory or Contributories of the Company, or by all or any of the above Parties, together or separately.

**83.** A

Commencement of winding up by Court. 20 Vict. c. 47. s. 64.

**83.** A Winding-up of a Company by the Court shall be deemed to commence at the Time of the Presentation of the Petition for the Winding-up.

Court may grant Injunction. 20 Vict. c. 47. s. 84.

**84.** The Court may, at any Time after the Presentation of a Petition for winding up a Company under this Act, and before making an Order for winding up the Company, upon the Application of the Company, or of any Creditor or Contributory of the Company, restrain further Proceedings in any Action, Suit, or Proceeding against the Company, upon such Terms as the Court thinks fit; the Court may also at any Time after the Presentation of such Petition, and before the First Appointment of Liquidators, appoint provisionally an Official Liquidator of the Estate and Effects of the Company.

Course to be pursued by Court on hearing Petition. 20 Vict. c. 47. ss. 70, 71, 72.

**85.** Upon hearing the Petition the Court may dismiss the same with or without Costs, may adjourn the Hearing conditionally or unconditionally, and may make any Interim Order, or any other Order that it deems just.

Actions and Suits to be stayed after Order for winding up. 20 Vict. c. 47. s. 84.

**86.** When an Order has been made for winding up a Company under this Act no Suit, Action, or other Proceeding shall be proceeded with or commenced against the Company except with the Leave of the Court, and subject to such Terms as the Court may impose.

Copy of Order to be forwarded to Registrar. 20 Vict. c. 47. s. 73.

**87.** When an Order has been made for winding up a Company under this Act, a Copy of such Order shall forthwith be forwarded by the Company to the Registrar of Joint Stock Companies, who shall make a Minute thereof in his Books relating to the Company.

Power of Court to stay Proceedings. 20 Vict. c. 47. s. 85.

**88.** The Court may at any Time after an Order has been made for winding up a Company, upon the Application by Motion of any Creditor or Contributory of the Company, and upon Proof to the Satisfaction of the Court that all Proceedings in relation to such Winding-up ought to be stayed, make an Order staying the same, either altogether or for a limited Time, on such Terms and subject to such Conditions as it deems fit.

Effect of Order on Share Capital of Company limited by Guarantee.

**89.** When an Order has been made for winding up a Company limited by Guarantee and having a Capital divided into Shares, any Share Capital that may not have been called up shall be deemed to be Assets of the Company, and to be a Debt (in England and Ireland of the Nature of a Specialty) due to the Company from each Member to the Extent of any Sums that may be unpaid on any

Shares held by him, and payable at such Time as may be appointed by the Court.

Court may have regard to Wishes of Creditors or Contributories.

**90.** The Court may, as to all Matters relating to the Winding-up, have regard to the Wishes of the Creditors or Contributories, as proved to it by any sufficient Evidence, and may, if it thinks it expedient, direct Meetings of the Creditors or Contributories to be summoned, held, and conducted in such Manner as the Court directs, for the Purpose of ascertaining their Wishes, and may appoint a Person to act as Chairman of any such Meeting, and to report the Result of such Meeting to the Court: In the Case of Creditors, regard is to be had to the Value of the Debts due to each Creditor, and in the Case of Contributories to the Number of Votes conferred on each Contributory by the Regulations of the Company.

*Official Liquidators.*

Appointment of Official Liquidators. 20 Vict. c. 47. s. 88.

**91.** For the Purpose of conducting the Proceedings in winding up a Company, and assisting the Court therein, there shall be appointed a Person or Persons to be called an Official Liquidator or Official Liquidators; and such Appointment shall be made as follows; (that is to say,) in Cases within the Jurisdiction of the Court of Bankruptcy in England an Official Assignee to be named by the Court shall be the Official Liquidator, either alone or together with such Person or Persons not exceeding Two as in the Case of a Winding-up at the Suit of a Creditor, the major Part in value of the Creditors of the Company assembled at any Meeting held for the Purpose, and in the Case of a Winding-up at the Suit of a Contributory, the Majority of Contributories (regard being had to the Number of Votes to which each Contributory is entitled) assembled at a Meeting held for the Purpose, may appoint as a Liquidator or Liquidators to act concurrently with such Official Liquidator; in all other Cases the Court having Jurisdiction may appoint such Person or Persons, either provisionally or otherwise, as it thinks fit, to the Office of Official Liquidator or Official Liquidators; in all Cases if more Persons than One are appointed to the Office of Official Liquidator, the Court shall declare whether any Act hereby required or authorized to be done by the Official Liquidator is to be done by all or any One or more of such Persons.

Resignations, Removals, and filling up Vacancies.

**92.** Any Official Liquidator, except an Official Assignee, may resign or be removed by the Court on due Cause shown: Any Vacancy in the Office of an Official Liquidator appointed by the Court shall be filled by the Court: Any Vacancy in the Office of Official Liquidator appointed by the Creditors shall be filled up by the Creditors in like Manner as the original Appointment was made.

**93.** The

Style and Duties of Official Liquidator. 20 Vict. c. 47. s. 89.

**93.** The Official Liquidator or Liquidators shall be described by the Style of the Official Liquidator or Official Liquidators of the particular Company in respect of which he is or they are appointed, and not by his or their individual Name or Names; he or they shall take into his or their Custody, or under his or their Control, all the Property, Effects, and Things in Actions to which the Company is or appears to be entitled, and shall perform such Duties in reference to the Winding-up of the Company as may be imposed by the Court.

Powers of Official Liquidator. 20 Vict. c. 47. s. 90. 22 Vict. c. 60. s. 18.

**94.** The Official Liquidator shall have Power, with the Sanction of the Court, to do the following Things:

To bring or defend any Action, Suit, or Prosecution, or other legal Proceeding, Civil or Criminal, in the Name and on behalf of the Company:

To carry on the Business of the Company, so far as may be necessary for the beneficial winding up of the same:

To sell the Real and Personal and Heritable and Moveable Property, Effects, and Things in Action of the Company by Public Auction or Private Contract, with Power to transfer the whole thereof to any Person or Company, or to sell the same in Parcels:

To do all Acts and to execute, in the Name and on behalf of the Company, all Deeds, Receipts, and other Documents, and for that Purpose to use, when necessary, the Company's Seal:

To prove, rank, claim, and draw a Dividend, in the Matter of the Bankruptcy or Insolvency or Sequestration of any Contributory, for any Balance against the Estate of such Contributory, and to take and receive Dividends in respect of such Balance, in the Matter of Bankruptcy or Insolvency or Sequestration, as a separate Debt due from such Bankrupt or Insolvent, and rateably with the other separate Creditors:

To draw, accept, make, and endorse any Bill of Exchange or Promissory Note in the Name and on behalf of the Company, also to raise upon the Security of the Assets of the Company from Time to Time any requisite Sum or Sums of Money; and the drawing, accepting, making, or endorsing of every such Bill of Exchange or Promissory Note as aforesaid on behalf of the Company shall have the same Effect with respect to the Liability of such Company as if such Bill or Note had been drawn, accepted, made, or endorsed by or on behalf of such Company in the course of carrying on the Business thereof:

To take out, if necessary, in his official Name, Letters of Administration to any deceased Contributory, and to do in his official Name any other Act that may be necessary for obtaining Payment of any Monies due from a Contributory or from his Estate, and which Act cannot be conveniently done in the Name of the Company;

Company; and in all Cases where he takes out Letters of Administration, or otherwise uses his official Name for obtaining Payment of any Monies due from a Contributory, such Monies shall for the Purpose of enabling him to take out such Letters or recover such Monies, be deemed to be due to the Official Liquidator himself:

To do and execute all such other Things as may be necessary for winding up the Affairs of the Company and distributing its Assets.

Discretion of Official Liquidator. 22 Vict. c. 60. s. 9.

**95.** The Court may provide by any Order that the Official Liquidator may exercise any of the above Powers without the Sanction or Intervention of the Court, and where an Official Liquidator is provisionally appointed may limit and restrict his Powers by the Order appointing him.

Appointment of Solicitor to Official Liquidator. 20 Vict. c. 47. s. 91.

**96.** Where the Official Liquidator is not a Solicitor in England or Ireland, or a Law Agent in Scotland, he may, with the Sanction of the Court, appoint a Solicitor or Law Agent to assist him in the Performance of his Duties.

*Ordinary Powers of Court.*

Collection and Application of Assets. 20 Vict. c. 47. s. 75.

**97.** As soon as may be after making an Order for winding up the Company, the Court shall settle a List of Contributories, with Power to rectify the Register of Members in all Cases where such Rectification is required in pursuance of this Act, and shall cause the Assets of the Company to be collected, and applied in discharge of its Liabilities pari passu.

Provision as to representative Contributories. 11 & 12 Vict. c. 45. s. 76.

**98.** In settling the List of Contributories the Court shall distinguish between Persons who are Contributories in their own Right and Persons who are Contributories as being Representatives of or being liable to the Debts of others, and no greater Liability shall be imposed on such Persons as are Contributories by reason of their being the Assignees of any bankrupt or insolvent Contributory, or the Personal Representatives, Heirs, or Devisees of any deceased Contributory, than they would have incurred if this Act had not passed; it shall not be necessary, where the Personal Representative of any deceased Contributory is placed on the List, to add the Heirs or Devisees of such Contributory, nevertheless such Heirs or Devisees may be added as and when the Court thinks fit.

Power of Court to require

**99.** The Court may, at any Time after making an Order for winding up a Company, require any Contributory for the Time being settled

settled on the List of Contributories, Trustee, Receiver, Banker, or Agent, or Officer of the Company to pay, deliver, convey, surrender, or transfer forthwith, or within such Time as the Court directs, to or into the Hands of the Official Liquidator, any Sum or Balance, Books, Papers, Estate, or Effects which happen to be in his Hands for the Time being, and to which the Company is primâ facie entitled.

Delivery of Property. 11 & 12 Vict. c. 45. s. 66.

**100.** The Court may, at any Time after making an Order for winding up the Company, make an Order on any Contributory for the Time being settled on the List of Contributories, directing Payment to be made, in manner in the said Order mentioned, of any Monies due from him or from the Estate of the Person whom he represents to the Company, exclusive of any Monies which he or the Estate of the Person whom he represents may be liable to contribute by virtue of any Call made or to be made by the Court in pursuance of this Part of this Act; and it may, in making such Order, allow to such Contributory by way of Set-off any Monies due to him or the Estate which he represents from the Company on any independent Dealing or Contract with the Company, but not any Monies due to him as a Member of the Company in respect of any Dividend or Profit.

Power of Court to order Payment of Debts by Contributory. 11 & 12 Vict. c. 45. s. 66.

**101.** The Court may, at any Time after making an Order for winding up a Company, and either before or after it has ascertained the Sufficiency of the Assets of the Company, make Calls on and order Payment thereof by all or any of the Contributories for the Time being settled on the List of Contributories, to the Extent of their Liability, for Payment of all or any Sums it deems necessary to satisfy the Debts and Liabilities of the Company, and the Costs, Charges, and Expenses of winding it up, and for the Adjustment of the Rights of the Contributories amongst themselves, and it may, in making a Call, take into consideration the Probability that some of the Contributories upon whom the same is made may partly or wholly fail to pay their respective Portions of the same.

Power of Courts to make Calls. 20 Vict. c. 47. s. 82.

**102.** The Court may order any Contributory, Purchaser, or other Person from whom Money is due to the Company to pay the same into the Bank of England or any Branch thereof to the Account of the Official Liquidator instead of to the Official Liquidator, and such Order may be enforced in the same Manner as if it had directed Payment to the Official Liquidator.

Power of Court to order Payment into Bank.

**103.** All Monies, Bills, Notes, and other Securities paid and delivered into the Bank of England or any Branch thereof in the event of a Company being wound up by the Court, shall be subject

Regulation of Account with Court. 12 & 13 Vict. c. 106. s. 39.

subject to such Order and Regulation for the keeping of the Account of such Monies and other Effects, and for the Payment and Delivery in, or Investment and Payment and Delivery out of the same as the Court may direct.

Provision in case of representative Contributory not paying Monies ordered.

**104.** If any Person made a Contributory as Personal Representative of a deceased Contributory makes default in paying any Sum ordered to be paid by him, Proceedings may be taken for administering the Personal and Real Estates of such deceased Contributory, or either of such Estates, and of compelling Payment thereout of the Monies due.

Order conclusive Evidence. 11 & 12 Vict. c. 45. s. 89.

**105.** Any Order made by the Court in pursuance of this Act upon any Contributory shall, subject to the Provisions herein contained for appealing against such Order, be conclusive Evidence that the Monies, if any, thereby appearing to be due or ordered to be paid are due, and all other pertinent Matters stated in such Order are to be taken to be truly stated as against all Persons, and in all Proceedings whatsoever, with the Exception of Proceedings taken against the Real Estate of any deceased Contributory, in which Case such Order shall only be primâ facie Evidence for the Purpose of charging his Real Estate, unless his Heirs or Devisees were on the List of Contributories at the Time of the Order being made.

Court may exclude Creditors not proving within certain Time. 20 Vict. c. 47. s. 84.

**106.** The Court may fix a certain Day or certain Days on or within which Creditors of the Company are to prove their Debts or Claims, or to be excluded from the Benefit of any Distribution made before such Debts are proved.

Proceedings in the Court of the Vice Warden of the Stannaries on Proof of Debts.

**107.** If in the course of proving the Debts and Claims of Creditors in the Court of the Vice Warden of the Stannaries any Debt or Claim is disputed by the Official Liquidator or by any Creditor or Contributory, or appears to the Court to be open to Question, the Court shall have Power, subject to Appeal as herein-after provided, to adjudicate upon it, and for that Purpose the said Court shall have and exercise all needful Powers of Inquiry touching the same by Affidavit or by oral Examination of Witnesses or of Parties, whether voluntarily offering themselves for Examination or summoned to attend by compulsory Process of the Court, or to produce Documents before the Court; and the Court shall also have Power, incidentally, to decide on the Validity and Extent of any Lien or Charge claimed by any Creditor on any Property of the Company in respect of such Debt, and to make Declarations of Right, binding on all Persons interested; and for the more satisfactory Determination of any Question of Fact, or mixed Question of Law and Fact arising on such

such Inquiry, the Vice Warden shall have Power, if he thinks fit, to direct and settle any Action or Issue to be tried either on the Common Law Side of his Court, or by a Common or Special Jury, before the Justices of Assize in and for the Counties of Cornwall or Devon, or at any Sitting of One of the Superior Courts in London or Middlesex, which Action or Issue shall accordingly be tried in due course of Law, and without other or further Consent of Parties; and the Finding of the Jury in such Action or Issue shall be conclusive of the Facts found, unless the Judge who tried it makes known to the Vice Warden that he was not satisfied with the finding, or unless it appears to the Vice Warden that, in consequence of Miscarriage, Accident, or the subsequent Discovery of fresh material Evidence, such Finding ought not to be conclusive.

Court to adjust Rights of Contributories. 20 Vict. c. 47. s. 86.

**108.** The Court shall adjust the Rights of the Contributories amongst themselves, and distribute any Surplus that may remain amongst the Parties entitled thereto.

Court to order Costs. 20 Vict. c. 47. s. 87.

**109.** The Court may, in the event of the Assets being insufficient to satisfy the Liabilities, make an Order as to the Payment out of the Estate of the Company of the Costs, Charges, and Expenses incurred in winding up any Company in such Order of Priority as the Court thinks just.

Dissolution of Company. 20 Vict. c. 47. s. 93.

**110.** When the Affairs of the Company have been completely wound up, the Court shall make an Order that the Company be dissolved from the Date of such Order, and the Company shall be dissolved accordingly.

Registrar to make Minute of Dissolution of Company. 20 Vict. c. 47. s. 94.

**111.** Any Order so made shall be reported by the Official Liquidator to the Registrar, who shall make a Minute accordingly in his Books of the Dissolution of such Company.

Penalty on not reporting Dissolution of Company. 21 Vict. c. 14. s. 20.

**112.** If the Official Liquidator makes default in reporting to the Registrar, in the Case of a Company being wound up by the Court, the Order that the Company be dissolved, he shall be liable to a Penalty not exceeding *Five Pounds* for every Day during which he is so in default.

Petition to be Lis pendens. 11 & 12 Vict. c. 45. s. 125.

**113.** Any Petition for winding up a Company by the Court under this Act shall constitute a Lis pendens within the Terms of the Act passed in the Session holden in the Second and Third Years of the Reign of Her present Majesty, Chapter Eleven, and intituled "An Act for the better Protection of Purchasers against Judgments, "Crown Debts, Lis pendens, and Fiats in Bankruptcy," provided the

same is duly registered in manner required by such Act concerning Suits in Equity.

*Extraordinary Powers of Court.*

Power of Court to summon Persons before it suspected of having Property of Company. 20 Vict. c. 47. s. 77. 11 & 12 Vict. c. 45. s. 63.

**114.** The Court may, after it has made an Order for winding up the Company, summon before it any Officer of the Company or Person known or suspected to have in his Possession any of the Estate or Effects of the Company, or supposed to be indebted to the Company, or any Person whom the Court may deem capable of giving Information concerning the Trade, Dealings, Estate, or Effects of the Company; and the Court may require any such Officer or Person to produce any Books, Papers, Deeds, Writings, or other Documents in his Custody or Power relating to the Company; and if any Person so summoned, after being tendered a reasonable Sum for his Expenses, refuses to come before the Court at the Time appointed, having no lawful Impediment (made known to the Court at the Time of its sitting, and allowed by it), the Court may cause such Person to be apprehended, and brought before the Court for Examination; nevertheless, in Cases where any Person claims any Lien on Papers, Deeds, or Writings or Documents produced by him, such Production shall be without Prejudice to such Lien, and the Court shall have Jurisdiction in the Winding-up to determine all Questions relating to such Lien.

Special Provisions as to Court of Vice Warden of the Stannaries.

**115.** If, after an Order for Winding-up in the Court of the Vice Warden of the Stannaries, it appears that any Person claims Property in, or any Lien, legal or equitable, upon any of the Machinery, Materials, Ores, or Effects on the Mine or on Premises occupied by the Company in connexion with the Mine, or to which the Company was, at the Time of the Order, primâ facie entitled, it shall be lawful for the Vice Warden to adjudicate upon such Claim on Interpleader in the Manner provided by Section Eleven of the Act of the Eighteenth Victoria, Chapter Thirty-two; and any Action or Issue directed upon such Interpleader may, if the Vice Warden think fit, be tried in his Court or at the Assizes or the Sittings in London or Middlesex, before a Judge of One of the Superior Courts, in the Manner and on the Terms and Conditions herein-before provided in the Case of disputed Debts and Claims of Creditors.

Examination of Parties by Court. 20 Vict. c. 47. s. 78.

**116.** The Court may examine upon Oath, either by Word of Mouth or upon written Interrogatories, any Person appearing or brought before them in manner aforesaid, concerning the Affairs, Dealings, Estate, or Effects of the Company, and may reduce into Writing

Writing the Answers of every such Person, and require him to subscribe the same.

Power to arrest Contributory about to abscond, or to remove or conceal any of his Property. 21 Vict. c. 14. s. 11.

**117.** The Court may, at any Time before or after it has made an Order for winding up a Company, upon Proof being given that there is probable Cause for believing that any Contributory to such Company is about to quit the United Kingdom, or otherwise abscond, or to remove or conceal any of his Goods or Chattels, for the Purpose of evading Payment of Calls, or for avoiding Examination in respect of the Affairs of the Company, cause such Contributory to be arrested, and his Books, Papers, Monies, Securities for Monies, Goods, and Chattels to be seized, and him and them to be safely kept until such Time as the Court may order.

Powers of Court cumulative.

**118.** Any Powers by this Act conferred on the Court shall be deemed to be in addition to and not in restriction of any other Powers subsisting, either at Law or in Equity, of instituting Proceedings against any Contributory, or the Estate of any Contributory, or against any Debtor of the Company for the Recovery of any Call or other Sums due from such Contributory or Debtor, or his Estate, and such Proceedings may be instituted accordingly.

*Enforcement of and Appeal from Orders.*

Power to enforce Orders. 20 Vict. c. 47. s. 60.

**119.** Every Court to which Jurisdiction is given by this Part of this Act, except the Court of Session, shall, in addition to its ordinary Powers, have the same Power of enforcing any Orders made by it in pursuance of this Act, if in England, as the Court of Chancery has, and if in Ireland, as the Court of Chancery in Ireland has, in relation to Matters within the Jurisdiction of such Courts respectively, and for this Purpose the Jurisdiction of the Vice Warden of the Stannaries shall be deemed to be co-extensive in local Limits with the Jurisdiction of the Court of Chancery in England.

Power to order Contributories in Scotland to pay Calls. 22 Vict. c. 60. s. 5.

**120.** Where an Order, Interlocutor, or Decree has been made in Scotland for winding-up a Company by the Court, it shall be competent to the Court in Scotland during Session, and to the Lord Ordinary on the Bills during Vacation, on Production by the Liquidators of a List certified by them of the Names of the Contributories liable in Payment of any Calls which they may wish to enforce, and of the Amount due by each Contributory respectively, and of the Date when the same became due, to pronounce forthwith a Decree against such Contributories for Payment of the Sums so certified to be due by each of them respectively, with Interest from the said Date till Payment, at the Rate of *Five Pounds* per Centum per Annum,

Annum, in the same Way and to the same Effect as if they had severally consented to Registration for Execution, on a Charge of *Six* Days, of a legal Obligation to pay such Calls and Interest; and such Decree may be extracted immediately, and no Suspension thereof shall be competent, except on Caution or Consignation, unless with special Leave of the Court or Lord Ordinary.

Order made in England to be enforced in Ireland and Scotland. 22 Vict. c. 60. s. 12.

**121.** Any Order made by the Court in England for or in the Course of the Winding-up of a Company under this Act shall be enforced in Scotland and Ireland in the Courts that would respectively have had Jurisdiction in respect of such Company if the registered Office of the Company had been situate in Scotland or Ireland, and in the same Manner in all respects as if such Order had been made by the Courts that are hereby required to enforce the same; and in like Manner Orders, Interlocutors, and Decrees made by the Court in Scotland for or in the Course of the Winding-up of a Company shall be enforced in England and Ireland, and Orders made by the Court in Ireland for or in the Course of winding up a Company shall be enforced in England and Scotland by the Courts which would respectively have had Jurisdiction in the Matter of such Company if the registered Office of the Company were situate in the Division of the United Kingdom where the Order is required to be enforced, and in the same Manner in all respects as if such Order had been made by the Court required to enforce the same in the Case of a Company within its own Jurisdiction.

Mode of dealing with Orders to be enforced by other Courts. 22 Vict. c. 60. s. 13.

**122.** Where any Order, Interlocutor, or Decree made by one Court is required to be enforced by another Court, as herein-before provided, an Office Copy of the Order, Interlocutor, or Decree so made shall be produced to the proper Officer of the Court required to enforce the same, and the Production of such Office Copy shall be sufficient Evidence of such Order, Interlocutor, or Decree having been made, and thereupon such last-mentioned Court shall take such Steps in the Matter as may be requisite for enforcing such Order, Interlocutor, or Decree, in the same Manner as if it were the Order, Interlocutor, or Decree of the Court enforcing the same.

Appeals from Orders. 11 & 12 Vict. c. 45. ss. 101, 102. 12 & 13 Vict. c. 108. s. 33.

**123.** Rehearings of and Appeals from any Order or Decision made or given in the Matter of the Winding-up of a Company by any Court having Jurisdiction under this Act, may be had in the same Manner and subject to the same Conditions in and subject to which Appeals may be had from any Order or Decision of the same Court in Cases within its ordinary Jurisdiction; subject to this Restriction, that no such Rehearing or Appeal shall be heard unless Notice of the same is given within *Three* Weeks after any Order complained of has

has been made, in manner in which Notices of Appeal are ordinarily given, according to the Practice of the Court appealed from, unless such Time is extended by the Court of Appeal: Provided that it shall be lawful for the Lord Warden of the Stannaries, by a Special or General Order, to remit at once any Appeal allowed and regularly lodged with him against any Order or Decision of the Vice Warden made in the Matter of a Winding-up to the Court of Appeal in Chancery, which Court shall thereupon hear and determine such Appeal, and have Power to require all such Certificates of the Vice Warden, Records of Proceedings below, Documents, and Papers as the Lord Warden would or might have required upon the Hearing of such Appeal, and to exercise all other the Jurisdiction and Powers of the Lord Warden specified in the Act of Parliament passed in the Eighteenth Year of the Reign of Her present Majesty, Chapter Thirty-two, and any Order so made by the Court of Appeal in Chancery shall be final, without any further Appeal.

Judicial Notice to be taken of Signature of Officers. 11 & 12 Vict. c. 45. s. 111.

**124.** In all Proceedings under this Part of this Act, all Courts, Judges, and Persons judicially acting, and all other Officers, Judicial or Ministerial, of any Court, or employed in enforcing the Process of any Court, shall take judicial Notice of the Signature of any Officer of the Courts of Bankruptcy in England, or in Ireland, or of the Court of Session in Scotland, or of the Registrar of the Court of the Vice Warden of the Stannaries, and also of the official Seal or Stamp of the several Offices of the Courts of Bankruptcy in England or Ireland, or of the Court of Session in Scotland, or of the Court of the Vice Warden of the Stannaries, when such Seal or Stamp is appended to or impressed on any Document made, issued, or signed under the Provisions of this Part of the Act, or any official Copy thereof.

Special Commissioners for receiving Evidence. 20 Vict. c. 47. s. 101.

**125.** The Commissioners of the Court of Bankruptcy and the Judges of the County Courts in England who sit at Places more than *Twenty* Miles from the General Post Office, and the Commissioners of Bankrupt and the Assistant Barristers and Recorders in Ireland, and the Sheriffs of Counties in Scotland, shall be Commissioners for the Purpose of taking Evidence under this Act in Cases where any Company is wound up in any Part of the United Kingdom, and it shall be lawful for the Court to refer the whole or any Part of the Examination of any Witnesses under this Act to any Person hereby appointed Commissioner, although such Commissioner is out of the Jurisdiction of the Court that made the Order or Decree for winding up the Company; and every such Commissioner shall, in addition to any Power of summoning and examining Witnesses, and requiring the Production or Delivery of Documents, and certifying or punishing

Defaults by Witnesses, which he might lawfully exercise as a Commissioner of the Court of Bankruptcy, Judge of a County Court, Commissioner of Bankrupt, Assistant Barrister, or Recorder, or as a Sheriff of a County, have in the Matter so referred to him all the same Powers of summoning and examining Witnesses, and requiring the Production or Delivery of Documents, and punishing Defaults by Witnesses, and allowing Costs and Charges and Expenses to Witnesses, as the Court which made the Order for winding up the Company has; and the Examination so taken shall be returned or reported to such last-mentioned Court in such Manner as it directs.

Court may order the Examination of Persons in Scotland. 12 & 13 Vict. c. 108. s. 21.

**126.** The Court may direct the Examination in Scotland of any Person for the Time being in Scotland, whether a Contributory of the Company or not, in regard to the Estate, Dealings, or Affairs of any Company in the course of being wound up, or in regard to the Estate, Dealings, or Affairs of any Person being a Contributory of the Company, so far as the Company may be interested therein by reason of his being such Contributory, and the Order or Commission to take such Examination shall be directed to the Sheriff of the County in which the Person to be examined is residing or happens to be for the Time, and the Sheriff shall summon such Person to appear before him at a Time and Place to be specified in the Summons, for Examination upon Oath as a Witness or as a Haver, and to produce any Books, Papers, Deeds, or Documents called for which may be in his Possession or Power, and the Sheriff may take such Examination either orally or upon written Interrogatories, and shall report the same in Writing in the usual Form to the Court, and shall transmit with such Report the Books, Papers, Deeds, or Documents produced, if the Originals thereof are required and specified by the Order, or otherwise, such Copies thereof or Extracts therefrom, authenticated by the Sheriff, as may be necessary; and in case any Person so summoned fails to appear at the Time and Place specified, or appearing refuses to be examined or to make the Production required, the Sheriff shall proceed against such Person as a Witness or Haver duly cited, and failing to appear or refusing to give Evidence or make Production may be proceeded against by the Law of Scotland; and the Sheriff shall be entitled to such and the like Fees, and the Witness shall be entitled to such and the like Allowances, as Sheriffs when acting as Commissioners under Appointment from the Court of Session and as Witnesses and Havers are entitled to in the like Cases according to the Law and Practice of Scotland: If any Objection is stated to the Sheriff by the Witness, either on the Ground of his Incompetency as a Witness, or as to the Production required to be made, or on any other Ground whatever, the Sheriff may, if he thinks fit, report such Objection to the Court, and suspend the Examination of

of such Witness until such Objection has been disposed of by the Court.

Affidavits, &c. may be sworn in Ireland, Scotland, or the Colonies before any competent Court or Person. 12 & 13 Vict. c. 108. s. 24.

**127.** Any Affidavit, Affirmation, or Declaration required to be sworn or made, under the Provisions or for the Purposes of this Part of this Act, may be lawfully sworn or made in Great Britain or Ireland, or in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Court, Judge, or Person lawfully authorized to take and receive Affidavits, Affirmations, or Declarations, or before any of Her Majesty's Consuls or Vice-Consuls, in any Foreign Parts out of Her Majesty's Dominions, and all Courts, Judges, Justices, Commissioners, and Persons acting judicially shall take judicial Notice of the Seal or Stamp or Signature (as the Case may be) of any such Court, Judge, Person, Consul, or Vice-Consul attached, appended, or subscribed to any such Affidavit, Affirmation, or Declaration, or to any other Document to be used for the Purposes of this Part of this Act.

*Voluntary Winding-up of Company.*

Circumstances under which Company may be wound up voluntarily. 20 Vict. c. 47. s. 102.

**128.** A Company under this Act may be wound up voluntarily,

(1.) Whenever the Period, if any, fixed for the Duration of the Company by the Articles of Association expires, or whenever the Event, if any, occurs, upon the Occurrence of which it is provided by the Articles of Association that the Company is to be dissolved, and the Company in General Meeting has passed a Resolution requiring the Company to be wound up voluntarily:

(2.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up voluntarily:

(3.) Whenever the Company has passed an Extraordinary Resolution to the Effect that it has been proved to their Satisfaction that the Company cannot by reason of its Liabilities continue its Business, and that it is advisable to wind up the same:

for the Purposes of this Act any Resolution shall be deemed to be extraordinary which is passed in such Manner as would, if it had been confirmed by a subsequent Meeting, have constituted a Special Resolution, as herein-before defined.

Commencement of voluntary Winding-up. 20 Vict. c. 47. s. 64.

**129.** A voluntary Winding-up shall be deemed to commence at the Time of the passing of the Resolution authorizing such Winding-up.

Effect of voluntary Winding-up

**130.** Whenever a Company is wound up voluntarily the Company shall, from the Date of the Commencement of such Winding-up

on Status of Company. 20 Vict. c. 47. s. 104.

up, cease to carry on its Business, except in so far as may be required for the beneficial Winding-up thereof, and all Transfers of Shares except Transfers made to or with the Sanction of the Liquidators, or Alteration in the Status of the Members of the Company taking place after the Commencement of such Winding-up shall be void, but its Corporate State and all its Corporate Powers shall, notwithstanding it is otherwise provided by its Regulations, continue until the Affairs of the Company are wound up.

Notice of Resolution to wind up voluntarily. 20 Vict. c. 47. s. 103.

**131.** Notice of any Special Resolution or Extraordinary Resolution passed for winding up a Company voluntarily shall be given by Advertisement as respects Companies registered in England in the London Gazette, as respects Companies registered in Scotland in the Edinburgh Gazette, and as respects Companies registered in Ireland in the Dublin Gazette.

Consequences of voluntary Winding-up. 20 Vict. c. 47. s. 104.

**132.** The following Consequences shall ensue upon the voluntary Winding-up of a Company:

(1.) The Property of the Company shall be applied in satisfaction of its Liabilities, pari passu, and, subject thereto, shall, unless it be otherwise provided by the Regulations of the Company, be distributed amongst the Members according to their Rights and Interests in the Company:

(2.) Liquidators shall be appointed for the Purpose of winding up the Affairs of the Company and distributing the Property:

(3.) The Company in General Meeting shall appoint such Persons or Person as it thinks fit to be Liquidators or a Liquidator, and may fix the Remuneration to be paid to them or him:

(4.) If One Person only is appointed, all the Provisions herein contained in reference to several Liquidators shall apply to him:

(5.) Upon the Appointment of Liquidators all the Power of the Directors shall cease, except in so far as the Company in General Meeting or the Liquidators may sanction the Continuance of such Powers:

(6.) When several Liquidators are appointed, every Power hereby given may be exercised by such One or more of them, as may be determined at the Time of their Appointment, or in default of such Determination by any Number not less than *Two*:

(7.) The Liquidators may, without the Sanction of the Court, exercise all Powers by this Act given to the Official Liquidator:

(8.) The Liquidators may exercise the Powers herein-before given to the Court of settling the List of Contributories of the Company,

Company, and any List so settled shall be primâ facie Evidence of the Liability of the Persons named therein to be Contributories:

(9.) The Liquidators may at any Time after the passing of the Resolution for winding up the Company, and before they have ascertained the Sufficiency of the Assets of the Company, call on all or any of the Contributories for the Time being settled on the List of Contributories to the Extent of their Liability to pay all or any Sums they deem necessary to satisfy the Debts, and Liabilities of the Company and the Costs, Charges, and Expenses of winding it up, and for the Adjustment of the Rights of the Contributories, amongst themselves, and the Liquidators may in making a Call take into consideration the Probability that some of the Contributories upon whom the same is made may partly or wholly fail to pay their respective Portions of the same:

(10.) The Liquidators shall pay the Debts of the Company, and adjust the Rights of the Contributories amongst themselves.

Effect of Winding-up on Share Capital of Company limited by Guarantee.

**133.** Where a Company limited by Guarantee, and having a Capital divided into Shares, is being wound up voluntarily, any Share Capital that may not have been called up shall be deemed to be Assets of the Company, and to be a Specialty Debt due from each Member to the Company to the Extent of any Sums that may be unpaid on any Shares held by him, and payable at such Time as may be appointed by the Liquidators.

Power of Company to delegate Authority to appoint Liquidators.

**134.** A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an Extraordinary Resolution, delegate to its Creditors, or to any Committee of its Creditors, the Power of appointing Liquidators or any of them, and supplying any Vacancies in the Appointment of Liquidators, or may by a like Resolution enter into any Arrangement with respect to the Powers to be exercised by the Liquidators, and the Manner in which they are to be exercised; and any Act done by the Creditors, in pursuance of such delegated Power, shall have the same Effect as if it had been done by the Company.

Arrangement when binding on Creditors.

**135.** Any Arrangement entered into between a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, and its Creditors, shall be binding on the Company if sanctioned by an Extraordinary Resolution, and on the Creditors if acceded to by *Three Fourths* in Number and Value of the Creditors, subject to such Right of Appeal as is herein-after mentioned.

Power of Creditor or Contributory to appeal.

**136.** Any Creditor or Contributory of a Company that has in manner aforesaid entered into any Arrangement with its Creditors may, within Three Weeks from the Date of the Completion of such Arrangement, appeal to the Court against such Arrangement, and the Court may thereupon, as it thinks just, amend, vary, or confirm the same.

Power for Liquidators or Contributories in voluntary Winding-up to apply to Court. 22 Vict. c. 60. s. 14.

**137.** Where a Company is being wound up voluntarily the Liquidators or any Contributory of the Company may apply to the Court in England, Ireland, or Scotland, or to the Lord Ordinary on the Bills in Scotland in Time of Vacation, to determine any Question arising in the Matter of such Winding-up, or to exercise, as respects the enforcing of Calls, or in respect of any other Matter, all or any of the Powers which the Court might exercise if the Company were being wound up by the Court; and the Court or Lord Ordinary in the Case aforesaid, if satisfied that the Determination of such Question, or the required Exercise of Power, will be just and beneficial, may accede, wholly or partially, to such Application, on such Terms and subject to such Conditions as the Court thinks fit, or it may make such other Order, Interlocutor, or Decree on such Application as the Court thinks just.

Power of Liquidators to call General Meeting. 21 Vict. c. 14. s. 18.

**138.** Where a Company is being wound up voluntarily the Liquidators may, from Time to Time, during the Continuance of such Winding-up, summon General Meetings of the Company for the Purpose of obtaining the Sanction of the Company by Special Resolution or Extraordinary Resolution, or for any other Purposes they think fit; and in the event of the Winding-up continuing for more than *One Year*, the Liquidators shall summon a General Meeting of the Company at the End of the First Year, and of each succeeding Year from the Commencement of the Winding-up, or as soon thereafter as may be convenient, and shall lay before such Meeting an Account showing their Acts and Dealings, and the Manner in which the Winding-up has been conducted during the preceding Year.

Power to fill up Vacancy in Liquidators. 22 Vict. c. 60. s. 15.

**139.** If any Vacancy occurs in the Office of Liquidators appointed by the Company, by Death, Resignation, or otherwise, the Company in General Meeting may, subject to any Arrangement they may have entered into with their Creditors, fill up such Vacancy, and a General Meeting for the Purpose of filling up such Vacancy may be convened by the continuing Liquidators, if any, or by any Contributory of the Company, and shall be deemed to have been duly held if held in manner in which a Meeting for passing an Extraordinary Resolution is hereby required to be held, or in such other Manner

Manner as may, on Application by the continuing Liquidator, if any, or by any Contributory of the Company, be determined by the Court.

Power of Court to appoint Liquidators.

**140.** If from any Cause whatever there is no Liquidator acting in the Case of a voluntary Winding-up, the Court may, on the Application of a Contributory, appoint a Liquidator or Liquidators: The Court may also, on due Cause shown, remove any Liquidator, and appoint another Liquidator to act in the Matter of a voluntary Winding-up.

Liquidators on Conclusion of Winding-up to make up an Account. 20 Vict. c. 47. s. 104.

**141.** As soon as the Affairs of the Company are fully wound up, the Liquidators shall make up an Account showing the Manner in which such Winding-up has been conducted, and the Property of the Company disposed of; and thereupon they shall call a General Meeting of the Company for the Purpose of having the Account laid before them and hearing any Explanation that may be given by the Liquidators: The Meeting shall be called by Advertisement, specifying the Time, Place, and Object of such Meeting; and such Advertisement shall be published One Month at least previously to the Meeting, as respects Companies registered in England in the London Gazette, and as respects Companies registered in Scotland in the Edinburgh Gazette, and as respects Companies registered in Ireland in the Dublin Gazette.

Liquidators to report Meeting to Registrar. 20 Vict. c. 47. s. 104.

**142.** The Liquidators shall make a Return to the Registrar of such Meeting having been held, and of the Date at which the same was held, and on the Expiration of *Three* Months from the Date of the Registration of such Return the Company shall be deemed to be dissolved: If the Liquidators make Default in making such Return to the Registrar they shall incur a Penalty not exceeding *Five Pounds* for every Day during which such Default continues.

Costs of voluntary Liquidation. 20 Vict. c. 47. s. 104.

**143.** All Costs, Charges, and Expenses properly incurred in the voluntary Winding-up of a Company, including the Remuneration of the Liquidators, shall be payable out of the Assets of the Company in priority to all other Claims.

Saving of Rights of Creditors. 20 Vict. c. 47. s. 105.

**144.** The voluntary Winding-up of a Company shall not be a Bar to the Right of any Creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the Rights of such Creditor will be prejudiced by a voluntary Winding-up.

Power of Court to adopt Pro-

**145.** Where a Company is in course of being wound up voluntarily, and Proceedings are taken for the Purpose of having the same

ceedings of voluntary Winding-up. 21 Vict. c. 14. s. 19.

wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an Order directing the Company to be wound up by the Court, provide in such Order or in any other Order for the Adoption of all or any of the Proceedings taken in the course of the voluntary Winding-up.

*Winding up subject to the Supervision of the Court.*

Power of Court, on Application, to direct Winding-up, subject to Supervision. 21 Vict. c. 14. s. 19.

**146.** When a Resolution has been passed by a Company to wind up voluntarily, the Court may make an Order directing that the voluntary Winding-up should continue, but subject to such Supervision of the Court, and with such Liberty for Creditors, Contributories, or others, to apply to the Court, and generally upon such Terms and subject to such Conditions as the Court thinks just.

Petition for winding up, subject to Supervision. 22 Vict. c. 60. s. 2.

**147.** A Petition, praying wholly or in part that a voluntary Winding-up should continue, but subject to the Supervision of the Court, and which Winding-up is herein-after referred to as a Winding-up subject to the Supervision of the Court, shall, for the Purpose of giving Jurisdiction to the Court over Suits and Actions, be deemed to be a Petition for winding up the Company by the Court.

Court may have regard to Wishes of Creditors.

**148.** The Court may, in determining whether a Company is to be wound up altogether by the Court or subject to the Supervision of the Court, in the Appointment of Liquidator or Liquidators, and in all other Matters relating to the winding up subject to Supervision, have regard to the Wishes of the Creditors or Contributories as proved to it by any sufficient Evidence, and may direct Meetings of the Creditors or Contributories to be summoned, held, and regulated in such Manner as the Court directs for the Purpose of ascertaining their Wishes, and may appoint a Person to act as Chairman of any such Meeting, and to report the Result of such Meeting to the Court: In the Case of Creditors, regard shall be had to the Value of the Debts due to each Creditor, and in the Case of Contributories to the Number of Votes conferred on each Contributory by the Regulations of the Company.

Power to Court to appoint additional Liquidators in Winding-up subject to Supervision.

**149.** Where any Order is made by the Court for a Winding-up subject to the Supervision of the Court, the Court may, in such Order or in any subsequent Order, appoint any additional Liquidator or Liquidators; and any Liquidators so appointed by the Court shall have the same Powers, be subject to the same Obligations, and in all respects stand in the same Position as if they had been appointed by the Company: The Court may from Time to Time remove any

any Liquidators so appointed by the Court, and fill up any Vacancy occasioned by such Removal, or by Death or Resignation. 22 Vict. c. 60. s. 15.

**150.** Where an Order is made for a Winding-up subject to the Supervision of the Court, the Liquidators appointed to conduct such Winding-up may, subject to any Restrictions imposed by the Court, exercise all their Powers, without the Sanction or Intervention of the Court, in the same Manner as if the Company were being wound up altogether voluntarily; but, save as aforesaid, any Order made by the Court for a Winding-up, subject to the Supervision of the Court, shall for all Purposes including the staying of Actions, Suits, and other Proceedings be deemed to be an Order of the Court for winding up the Company by the Court, and shall confer full Authority on the Court to make Calls, or to enforce Calls made by the Liquidators, and to exercise all other Powers which it might have exercised if an Order had been made for winding up the Company altogether by the Court, and in the Construction of the Provisions whereby the Court is empowered to direct any Act or Thing to be done to or in favour of the Official Liquidators, the Expression Official Liquidators shall be deemed to mean the Liquidators conducting the Winding-up, subject to the Supervision of the Court. Effect of Order of Court for winding-up subject to Supervision. 22 Vict. c. 60. s. 4.

**151.** Where an Order has been made for the Winding-up of a Company subject to the Supervision of the Court, and such Order is afterwards superseded by an Order directing the Company to be wound up compulsorily, the Court may in such last-mentioned Order, or in any subsequent Order, appoint the voluntary Liquidators or any of them, either provisionally or permanently, and either with or without the Addition of any other Persons, to be Official Liquidators. Appointment in certain Cases of voluntary Liquidators to Office of Official Liquidators. 22 Vict. c. 60. s. 8.

*Supplemental Provisions.*

**152.** Where any Company is being wound up by the Court or subject to the Supervision of the Court all Dispositions of the Property, Effects, and Things in Action of the Company, and every Transfer of Shares, or Alteration in the Status of the Members of the Company made between the Commencement of the winding up and the Order for winding up, shall, unless the Court otherwise orders, be void. Dispositions after the Commencement of the Winding-up avoided. 20 Vict. c. 47. s. 73.

**153.** Where any Company is being wound up, all Books, Accounts, and Documents of the Company and of the Liquidators shall, as between the Contributories of the Company, be primâ facie The Books of the Company to be Evidence.

20 Vict. c. 47. s. 81.

Evidence of the Truth of all Matters purporting to be therein recorded.

As to Disposal of Books, Accounts, and Documents of the Company.

**154.** Where any Company has been wound up under this Act and is about to be dissolved, the Books, Accounts, and Documents of the Company and of the Liquidators may be disposed of in the following Way; that is to say, where the Company has been wound up by or subject to the Supervision of the Court, in such Way as the Court directs, and where the Company has been wound up voluntarily, in such Way as the Company by an Extraordinary Resolution directs; but after the Lapse of *Five* Years from the Date of such Dissolution, no Responsibility shall rest on the Company, or the Liquidators, or anyone to whom the Custody of such Books, Accounts, and Documents has been committed, by reason that the same, or any of them, cannot be made forthcoming to any Party or Parties claiming to be interested therein.

Inspection of Books. 22 Vict. c. 60. s. 7.

**155.** Where an Order has been made for winding up a Company by the Court, or subject to the Supervision of the Court, the Court may make such Order for the Inspection by the Creditors and Contributories of the Company of its Books and Papers as the Court thinks just, and any Books and Papers in the Possession of the Company may be inspected by Creditors or Contributories, in conformity with the Order of the Court, but not further or otherwise.

Power of Assignee to sue.

**156.** Any Person to whom any Thing in Action belonging to the Company is assigned, in pursuance of this Act, may bring or defend any Action or Suit relating to such Thing in Action in his own Name.

Debts of all Descriptions to be proved. 12 & 13 Vict. c. 106. s. 178.

**157.** In the event of any Company being wound up under this Act, all Debts payable on a Contingency, and all Claims against the Company, present or future, certain or contingent, ascertained or sounding only in Damages, shall be admissible to Proof against the Company, a just Estimate being made, so far as is possible, of the Value of all such Debts or Claims as may be subject to any Contingency or sound only in Damages, or for some other Reason do not bear a certain Value.

General Scheme of Liquidation may be sanctioned. 22 Vict. c. 60. s. 10.

**158.** The Liquidators may, with the Sanction of the Court, where the Company is being wound up by the Court or subject to the Supervision of the Court, and with the Sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, pay any Classes of Creditors in full, or make such Compromise or other Arrangement as the Liquidators may deem expedient with Creditors or Persons claiming to be Creditors, or Persons

Persons having or alleging themselves to have any Claim, present or future, certain or contingent, ascertained or sounding only in Damages against the Company, or whereby the Company may be rendered liable.

Power to compromise. 22 Vict. c. 60. s. 19.

**159.** The Liquidators may, with the Sanction of the Court, where the Company is being wound up by the Court or subject to the Supervision of the Court, and with the Sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, compromise all Calls and Liabilities to Calls, Debts, and Liabilities capable of resulting in Debts, and all Claims, whether present or future, certain or contingent, ascertained or sounding only in Damages, subsisting or supposed to subsist between the Company and any Contributory or alleged Contributory, or other Debtor or Person apprehending Liability to the Company, and all Questions in any way relating to or affecting the Assets of the Company or the winding up of the Company, upon the Receipt of such Sums, payable at such Times, and generally upon such Terms as may be agreed upon, with Power for the Liquidators to take any Security for the Discharge of such Debts or Liabilities, and to give complete Discharges in respect of all or any such Calls, Debts, or Liabilities.

Power for Liquidators to accept Shares, &c. as a Consideration for Sale of Property of Company. 21 Vict. c. 14. s. 17.

**160.** Where any Company is proposed to be or is in the course of being wound up altogether voluntarily, and the whole or a Portion of its Business or Property is proposed to be transferred or sold to another Company, the Liquidators of the first-mentioned Company may, with the Sanction of a Special Resolution of the Company by whom they were appointed, conferring either a general Authority on the Liquidators, or an Authority in respect of any particular Arrangement, receive in Compensation or part Compensation for such Transfer or Sale Shares, Policies, or other like Interests in such other Company, for the Purpose of Distribution amongst the Members of the Company being wound up, or may enter into any other Arrangement whereby the Members of the Company being wound up may, in lieu of receiving Cash, Shares, Policies, or other like Interests, or in addition thereto, participate in the Profits of or receive any other Benefit from the purchasing Company; and any Sale made or Arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the Members of the Company being wound up; subject to this Proviso that if any Member of the Company being wound up who has not voted in favour of the Special Resolution passed by the Company of which he is a Member at either of the Meetings held for passing the same expresses his Dissent from any such Special Resolution in Writing addressed to the Liquidators or One of them, and left

at the registered Office of the Company not later than *Seven* Days after the Date of the Meeting at which such Special Resolution was passed, such dissentient Member may require the Liquidators to do One of the following Things as the Liquidators may prefer; that is to say, either to abstain from carrying such Resolution into effect, or to purchase the Interest held by such dissentient Member at a Price to be determined in manner herein-after mentioned, such Purchase Money to be paid before the Company is dissolved, and to be raised by the Liquidators in such Manner as may be determined by Special Resolution: No Special Resolution shall be deemed invalid for the Purposes of this Section by reason that it is passed antecedently to or concurrently with any Resolution for winding up the Company, or for appointing Liquidators; but if an Order be made within a Year for winding up the Company by or subject to the Supervision of the Court, such Resolution shall not be of any Validity unless it is sanctioned by the Court.

Mode of determining Price.

**161.** The Price to be paid for the Purchase of the Interest of any dissentient Member may be determined by Agreement, but if the Parties dispute about the same, such Dispute shall be settled by Arbitration, and for the Purposes of such Arbitration the Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the Settlement of Disputes by Arbitration, shall be incorporated with this Act; and in the Construction of such Provisions this Act shall be deemed to be the Special Act, and "the Company" shall mean the Company that is being wound up, and any Appointment by the said incorporated Provisions directed to be made under the Hand of the Secretary, or any Two of the Directors, may be made under the Hand of the Liquidator, if only One, or any Two or more of the Liquidators if more than One.

Certain Attachments, Sequestrations, and Executions to be void. 20 Vict. c. 47. s. 80.

**162.** Where any Company is being wound up by the Court or subject to the Supervision of the Court, any Attachment, Sequestration, Distress, or Execution put in force against the Estate or Effects of the Company after the Commencement of the Winding-up shall be void to all Intents.

Fraudulent Preference. 20 Vict. c. 47. s. 76.

**163.** Any such Conveyance, Mortgage, Delivery of Goods, Payment, Execution, or other Act relating to Property, as would, if made or done by or against any individual Trader, be deemed in the event of his Bankruptcy to have been made or done by way of undue or fraudulent Preference of the Creditors of such Trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent Preference of the Creditors of

of such Company, and shall be invalid accordingly; and for the Purposes of this Section the Presentation of a Petition for winding up a Company shall in the Case of a Company being wound up by the Court or subject to the Supervision of the Court, and a Resolution for winding up the Company shall in the Case of a voluntary Winding-up be deemed to correspond with the Act of Bankruptcy in the Case of an individual Trader; and any Conveyance or Assignment made by any Company formed under this Act of all its Estate and Effects to Trustees for the Benefit of all its Creditors shall be void to all Intents.

Power of Court to assess Damages against delinquent Directors and Officers.

**164.** Where, in the course of the Winding-up of any Company under this Act, it appears that any past or present Director, Manager, or Officer of such Company has been guilty of misappropriating the Moneys of the Company, or of any Misfeasance or Breach of Trust in relation to the Company, the Court may, on the Application of the Liquidators, or of any Creditor or Contributory of the Company, notwithstanding that the Offence is one for which the Offender is criminally responsible, examine into the Conduct of such Director, Manager, or other Officer, and compel him to contribute such Sums of Money to the Assets of the Company, by way of Compensation in respect of such Misappropriation, Misfeasance, or Breach of Trust, as the Court thinks just.

Penalty on Falsification of Books. 20 Vict. c. 47. s. 79.

**165.** If any Director, Officer, or Contributory of any Company wound-up under this Act destroys, mutilates, alters, or falsifies any Books, Papers, Writings, or Securities, or makes or is privy to the making of any false or fraudulent Entry in any Register, Book of Account, or other Document belonging to the Company, with Intent to defraud or deceive any Person, every Person so offending shall be deemed to be guilty of a Misdemeanor, and upon being convicted shall be liable to Imprisonment for any Term not exceeding *Two Years*, with or without Hard Labour.

Prosecution of delinquent Directors in the Case of winding up by Court. 22 Vict. c. 60. s. 20.

**166.** Where any Order is made for winding up a Company by the Court or subject to the Supervision of the Court, if it appear in the course of such Winding-up that any past or present Director, Manager, Officer, or Member of such Company has been guilty of any Offence in relation to the Company for which he is criminally responsible, the Court may, on the Application of any Person interested in such Winding-up, or of its own Motion, direct the Official Liquidators, or the Liquidators, (as the Case may be,) to institute and conduct a Prosecution or Prosecutions for such Offence, and may order the Costs and Expenses to be paid out of the Assets of the Company.

 **167.** Where

Prosecution of delinquent Directors, &c. in case of voluntary Winding-up. 22 Vict. c. 60. s. 21.

**167.** Where a Company is being wound up altogether voluntarily, if it appear to the Liquidators conducting such Winding-up that any past or present Director, Manager, Officer, or Member of such Company has been guilty of any Offence in relation to the Company for which he is criminally responsible, it shall be lawful for the Liquidators, with the previous Sanction of the Court, to prosecute such Offender, and all Expenses properly incurred by them in such Prosecution shall be payable out of the Assets of the Company in priority to all other Liabilities.

Penalty of Perjury. 11 & 12 Vict. c. 45. s. 113.

**168.** If any Person, upon any Examination upon Oath or Affirmation authorized under this Act, or in any Affidavit, Deposition, or solemn Affirmation in or about the Winding-up of any Company under this Act, or otherwise in or about any Matter arising under this Act, wilfully and corruptly gives false Evidence, he shall, upon Conviction, be liable to the Penalties of wilful Perjury.

*Power of Courts to make Rules.*

Power of Commissioners of Bankruptcy to make Rules. 20 Vict. c. 47. s. 99.

**169.** Any Two Commissioners of Bankruptcy appointed by the Lord Chancellor of Great Britain may, as respects the Courts of Bankruptcy in England, and the Commissioners of Bankrupt in Ireland may, as respects the Courts of Bankruptcy in Ireland, make Rules as they respectively from Time to Time think fit, but subject to the Approval, in the Case of England of the Lord Chancellor of Great Britain, and in the Case of Ireland of the Lord Chancellor of Ireland, for the Purpose of regulating the Proceedings in such Courts for winding up Companies, but, subject to such Rules, the general Practice of the Courts of Bankruptcy in England and Ireland respectively, in Cases within the ordinary Jurisdiction of such Courts, shall, so far as the same is applicable, and not inconsistent with this Act, apply to all Proceedings under this Act; and any Order made by any Commissioner of Bankruptcy in such Proceedings may be enforced in the same Manner in which Orders made in Proceedings within the ordinary Jurisdiction of such Court are enforced.

Power of Court of Session in Scotland to make Rules. 20 Vict. c. 47. s. 97.

**170.** In Scotland the Court of Session may make such Rules concerning the Mode of Winding-up as may be necessary by Act of Sederunt; but, until such Rules are made, the general Practice of the Court of Session in Suits pending in such Court shall, so far as the same is applicable, and not inconsistent with this Act, apply to all Proceedings for winding up a Company, and Official Liquidators shall in all respects be considered as possessing the same Powers as any Trustee on a Bankrupt Estate.

**171.** The

**171.** The Vice-Warden of the Stannaries may from Time to Time, with the Consent provided for by Section Twenty-three of the Act of Eighteenth of Victoria, Chapter Thirty-two, make Rules for carrying into effect the Powers conferred by this Act upon the Court of the Vice-Warden, but, subject to such Rules, the general Practice of the said Court and of the Registrar's Office in the said Court shall apply to all Proceedings under this Act; the said Vice-Warden may likewise, with the same Consent, make from Time to Time Rules for specifying the Fees to be taken in his said Court in Proceedings under this Act; and any Rules so made shall be of the same Force as if they had been enacted in the Body of this Act.

Power to make Rules in Stannaries Court. 20 Vict. c. 47. s. 98.

**172.** The Lord Chancellor of Great Britain as respects the Courts of Bankruptcy in England, the Lord Chancellor of Ireland as respects the Courts of Bankruptcy in Ireland, the Court of Session in Scotland by Act of Sederunt as respects Proceedings in the Court of Session, may make Rules specifying the Fees to be paid in respect of Proceedings taken under this Act for winding up a Company in such Courts respectively, and the Fees paid in any Court of Bankruptcy shall be collected and applied in the Manner in which Fees taken in such Courts in ordinary Proceedings are collected and applied; and the Fees payable in respect of Proceedings taken in the Court of the Vice-Warden under this Act shall be applied in such Manner for the Maintenance and Benefit of the said Court or the Officers thereof, as the Council of His Royal Highness the Duke of Cornwall, or the Commissioners for managing the Affairs of the Duchy for the Time being, may from Time to Time direct, and until such Direction shall be kept as a separate Fund apart from the ordinary Fees of the Court to await the Order for such Application.

Rules with respect to Fees. 20 Vict. c. 47. s. 100.

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## PART V.

### Registration Office.

**173.** The Registration of Companies under this Act shall be conducted as follows; (that is to say,)

Constitution of Registration Office.

(1.) The Board of Trade may from Time to Time appoint such Registrars, Assistant Registrars, Clerks, and Servants, as they may think necessary for the Registration of Companies under this Act, and remove them at Pleasure:

20 Vict. c. 47. s. 106.

(2.) The Board of Trade may make such Regulations as they think fit with respect to the Duties to be performed by any such Registrars, Assistant Registrars, Clerks, and Servants as aforesaid:

(3.) The Board of Trade may from Time to Time determine the Places at which Offices for the Registration of Companies are to be established, so that there be at all Times maintained in each of the Three Parts of the United Kingdom at least One such Office, and that no Company shall be registered except at an Office within that Part of the United Kingdom in which by the Memorandum of Association the registered Office of the Company is declared to be established; and the Board may require that the Registrar's Office of the Court of the Vice-Warden of the Stannaries shall be One of the Offices for the Registration of Companies formed for working Mines within the Jurisdiction of the Court:

(4.) The Board of Trade may from Time to Time direct a Seal or Seals to be prepared for the Authentication of any Documents required for or connected with the Registration of Companies:

(5.) Every Person may inspect the Documents kept by the Registrar of Joint Stock Companies; and there shall be paid for such Inspection such Fees as may be appointed by the Board of Trade, not exceeding *One Shilling* for each Inspection; and any Person may require a Certificate of the Incorporation of any Company, or a Copy or Extract of any other Document or any Part of any other Document, to be certified by the Registrar; and there shall be paid for such Certificate of Incorporation, certified Copy, or Extract, such Fees as the Board of Trade may appoint, not exceeding *Five Shillings* for the Certificate of Incorporation, and not exceeding *Sixpence* for each Folio of such Copy or Extract, or in Scotland for each Sheet of Two hundred Words:

(6.) The existing Registrar, Assistant Registrars, Clerks, and other Officers and Servants in the Office for the Registration of Joint Stock Companies, shall, during the Pleasure of the Board of Trade, hold the Offices and receive the Salaries hitherto held and received by them, but they shall in the Execution of their Duties conform to any Regulations that may be issued by the Board of Trade:

(7.) There shall be paid to any Registrar, Assistant Registrar, Clerk, or Servant that may hereafter be employed in the Registration of Joint Stock Companies such Salary as the Board

Board of Trade may, with the Sanction of the Commissioners of the Treasury, direct:

(8.) Whenever any Act is herein directed to be done to or by the Registrar of Joint Stock Companies, such Act shall, until the Board of Trade otherwise directs, be done in England to or by the existing Registrar of Joint Stock Companies, or in his Absence to or by such Person as the Board of Trade may for the Time being authorize; in Scotland to or by the existing Registrar of Joint Stock Companies in Scotland; and in Ireland to or by the existing Assistant Registrar of Joint Stock Companies for Ireland, or by such Person as the Board of Trade may for the Time being authorize in Scotland or Ireland in the Absence of the Registrar: but, in the event of the Board of Trade altering the Constitution of the existing Registry Office, such Act shall be done to or by such Officer or Officers and at such Place or Places with reference to the local Situation of the registered Offices of the Companies to be registered, as the Board of Trade may appoint.

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## PART VI.

### Application of Act to Companies registered under the Joint Stock Companies Acts.

Definition of Joint Stock Companies Acts.

**174.** The Expression "Joint Stock Companies Acts" as used in this Act shall mean "The Joint Stock Companies Act, 1856," "The Joint Stock Companies Acts, 1856, 1857," "The Joint Stock Banking Companies Act, 1857," and "The Act to enable Joint Stock Banking Companies to be formed on the Principle of Limited Liability," or any One or more of such Acts, as the Case may require; but shall not include the Act passed in the Eighth Year of the Reign of Her present Majesty, Chapter One hundred and ten, and intituled "An Act for the Registration, Incorporation, and Regulation of Joint "Stock Companies."

Application of Act to Companies formed under Joint Stock Companies Acts.

**175.** Subject as herein-after mentioned, this Act, with the Exception of Table A. in the First Schedule, shall apply to Companies formed and registered under the said Joint Stock Companies Acts, or any of them, in the same Manner in the Case of a Limited Company as if such Company had been formed and registered under this Act as a Company limited by Shares, and in the Case of a Company other than a Limited Company as if such Company had been formed

formed and registered as an Unlimited Company under this Act, with this Qualification, that wherever Reference is made expressly or impliedly to the Date of Registration, such Date shall be deemed to refer to the Date at which such Companies were respectively registered under the said Joint Stock Companies Acts or any of them, and the Power of altering Regulations by Special Resolution given by this Act shall, in the Case of any Company formed and registered under the said Joint Stock Companies Acts or any of them, extend to altering any Provisions contained in the Table marked B. annexed to "The Joint Stock Companies Act, 1856," and shall also in the Case of an Unlimited Company formed and registered as last aforesaid extend to altering any Regulations relating to the Amount of Capital or its Distribution into Shares, notwithstanding such Regulations are contained in the Memorandum of Association.

Application of Act to Companies registered under Joint Stock Companies Acts.

**176.** This Act shall apply to Companies registered but not formed under the said Joint Stock Companies Acts or any of them, in the same Manner as it is herein-after declared to apply to Companies registered but not formed under this Act, with this Qualification, that wherever Reference is made expressly or impliedly to the Date of Registration, such Date shall be deemed to refer to the Date at which such Companies were respectively registered under the said Joint Stock Companies Acts or any of them.

Mode of transferring Shares.

**177.** Any Company registered under the said Joint Stock Companies Acts or any of them may cause its Shares to be transferred in manner hitherto in use, or in such other Manner as the Company may direct.

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## PART VII.

### Companies authorized to register under this Act.

Companies capable of being registered.
21 Vict. c. 14. s. 29.

**178.** No Company having the Liability of its Members limited by Act of Parliament or Letters Patent, and not being a Joint Stock Company as herein-after defined, shall register under this Act in pursuance of this Part thereof, but with the above Exception, and subject to the Restrictions herein-after mentioned, every Company existing at the Time of the Commencement of this Act, including any Company registered under the said Joint Stock Companies Acts, consisting of *Seven* or more Members, and any Company hereafter formed in pursuance of any Act of Parliament, other than this Act,

or

or of Letters Patent, or being a Company engaged in working Mines within and subject to the Jurisdiction of the Stannaries, or being otherwise duly constituted by Law, and consisting of *Seven* or more Members, may at any Time hereafter register itself under this Act as an Unlimited Company, or a Company limited by Shares, or a Company limited by Guarantee; and no such Registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Restriction on Registration. 21 Vict. c. 14. s. 29.

**179.** No Company in which the Liability of its Members is already limited by Act of Parliament or by Letters Patent shall register under this Act as an Unlimited Company, or as a Company limited by Guarantee, and no Company that is not a Joint Stock Company as herein-after defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by Shares; and no Company shall register under this Act in pursuance of this Part thereof unless an Assent to its so registering is given by a Majority of such of its Members as may be present, personally or by Proxy, in Cases where Proxies are allowed by the Regulations of the Company, at some General Meeting summoned for the Purpose; moreover, where a Company not having the Liability of its Members already limited by Act of Parliament or Letters Patent is about to register as a Limited Company, such Majority shall consist of not less than *Three Fourths* of the Members present personally or by Proxy as aforesaid, and where a Company is about to register as a Company limited by Guarantee the Assent to its being so registered shall be accompanied by a Resolution declaring that each Member undertakes to contribute to the Assets of the Company, in the event of the same being wound up, during the Time that he is a Member, or within *One Year* afterwards, for Payment of the Debts, Liabilities, and Losses of the Company contracted before the Time at which he ceased to be a Member, and of the Costs, Charges, and Expenses of winding up the Company, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required, not exceeding a specified Amount; in computing any Majority under this Section when a Poll is demanded, regard shall be had to the Number of Votes to which each Member is entitled according to the Regulations of the Company.

Definition of Joint Stock Company.

**180.** For the Purposes of this Part of this Act, so far as the same relates to the Description of Companies empowered to register as Companies limited by Shares, a Joint Stock Company shall be deemed to be a Company having a permanent paid-up or

nominal Capital of fixed Amount, divided into Shares, also of fixed Amount, or held and transferable as Stock, or divided and held partly in one way and partly in the other, and formed on the Principle of having for its Members the Holders of Shares in such Capital, or the Holders of such Stock, and no other Persons; and such Company when registered with Limited Liability under this Act shall be deemed to be a Company limited by Shares.

Proviso as to Banking Company. 22 Vict. c. 91. s. 1.

**181.** No Banking Company claiming to issue Notes in the United Kingdom shall be entitled to Limited Liability in respect of such Issue, but shall continue subject to Unlimited Liability in respect thereof, and, if necessary, the Assets shall be marshalled for the Benefit of the general Creditors, and the Members shall be liable for the whole Amount of the Issue, in addition to the Sum for which they would be liable as Members of a Limited Company.

Requisitions for Registration by Companies. 20 Vict. c. 47. s. 111.

**182.** Previously to the Registration in pursuance of this Part of this Act of any Joint Stock Company there shall be delivered to the Registrar the following Documents; (that is to say,)

(1.) A List showing the Names, Addresses, and Occupations of all Persons who on a Day named in such List, and not being more than *Six* clear Days before the Day of Registration, were Members of such Company, with the addition of the Shares held by such Persons respectively, distinguishing in Cases where such Shares are numbered, each Share by its Number:

(2.) A Copy of any Act of Parliament, Royal Charter, Letters Patent, Deed of Settlement, Cost Book Regulations, or other Instrument constituting or regulating the Company:

(3.) If any such Joint Stock Company is intended to be registered as a Limited Company, the above List and Copy shall be accompanied by a Statement specifying the following Particulars; that is to say,

The nominal Capital of the Company and the Number of Shares into which it is divided:

The Number of Shares taken and the Amount paid on each Share:

The Name of the Company, with the Addition of the Word "Limited" as the last Word thereof:

With the Addition, in the Case of a Company intended to be registered as a Company Limited by Guarantee, of the Resolution declaring the Amount of the Guarantee.

Requisitions for Registration by existing Company not being a Joint Stock Company.

**183.** Previously to the Registration in pursuance of this Part of this Act of any Company not being a Joint Stock Company, there shall be delivered to the Registrar a List showing the Names, Addresses, and Occupations of the Directors or other Managers (if any) of the Company, also a Copy of any Act of Parliament, Letters Patent, Deed of Settlement, Cost Book Regulations, or other Instrument constituting or regulating the Company, with the addition, in the Case of a Company intended to be registered as a Company limited by Guarantee, of the Resolution declaring the Amount of Guarantee.

Power for existing Company to register Amount of Stock instead of Shares. 21 Vict. c. 14. s. 30.

**184.** Where a Joint Stock Company authorized to register under this Act has had the whole or any Portion of its Capital converted into Stock, such Company shall, as to the Capital so converted, instead of delivering to the Registrar a Statement of Shares, deliver to the Registrar a Statement of the Amount of Stock belonging to the Company, and the Names of the Persons who were Holders of such Stock, on some Day to be named in the Statement, not more than *Six* clear Days before the Day of Registration.

Authentication of Statements of existing Companies. 20 Vict. c. 47. s. 112

**185.** The Lists of Members and Directors and any other Particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by a Declaration of the Directors of the Company delivering the same, or any Two of them, or of any Two other principal Officers of the Company, made in pursuance of the Act passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two.

Registrar may require Evidence as to Nature of Company.

**186.** The Registrar may require such Evidence as he thinks necessary for the Purpose of satisfying himself whether an existing Company is or not a Joint Stock Company as herein-before defined.

On Registration of Banking Company with Limited Liability Notice to be given to Customers. 22 Vict. c. 91. s. 3.

**187.** Every Banking Company existing at the Date of the passing of this Act which registers itself as a Limited Company shall, at least *Thirty* Days previous to obtaining a Certificate of Registration with Limited Liability, give Notice that it is intended so to register the same to every Person and Partnership Firm who have a Banking Account with the Company, and such Notice shall be given either by delivering the same to such Person or Firm, or leaving the same or putting the same into the Post addressed to him or them at such Address as shall have been last communicated or otherwise become known as his or their Address to or by the Company; and in case the Company omits to give any such Notice as is herein-before required to be given, then as between the Company and the

Person or Persons only who are for the Time being interested in the Account in respect of which such Notice ought to have been given, and so far as respects such Account and all Variations thereof down to the Time at which such Notice shall be given, but not further or otherwise, the Certificate of Registration with Limited Liability shall have no Operation.

Exemption of certain Companies from Payment of Fees. 21 Vict. c. 14. s. 32.

**188.** No Fees shall be charged in respect of the Registration in pursuance of this Part of this Act of any Company in Cases where such Company is not registered as a Limited Company, or where previously to its being registered as a Limited Company the Liability of the Shareholders was limited by some other Act of Parliament or by Letters Patent.

Power to Company to change Name. 20 Vict. c. 47. s. 114.

**189.** Any Company authorized by this Part of this Act to register with Limited Liability shall, for the Purpose of obtaining Registration with Limited Liability, change its Name, by adding thereto the Word "Limited."

Certificate of Registration of existing Companies. 20 Vict. c. 47. s. 113.

**190.** Upon Compliance with the Requisitions in his Part of this Act contained with respect to Registration, and on Payment of such Fees, if any, as are payable under the Tables marked B. and C. in the First Schedule hereto, the Registrar shall certify under his Hand that the Company so applying for Registration is incorporated as a Company under this Act, and, in the Case of a Limited Company, that it is limited, and thereupon such Company shall be incorporated, and shall have perpetual Succession and a Common Seal, with Power to hold Lands; and any Banking Company in Scotland so incorporated shall be deemed and taken to be a Bank incorporated, constituted, or established by or under Act of Parliament.

Certificate to be Evidence of Compliance with Act. 20 Vict. c. 47. s. 115.

**191.** A Certificate of Incorporation given at any Time to any Company registered in pursuance of this Part of this Act shall be conclusive Evidence that all the Requisitions herein contained in respect of Registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a Limited or Unlimited Company, as the Case may be, and the Date of Incorporation mentioned in such Certificate shall be deemed to be the Date at which the Company is incorporated under this Act.

Transfer of Property to Company. 21 Vict. c. 49. s. 16.

**192.** All such Property, Real and Personal, including all Interests and Rights in, to, and out of Property, Real and Personal, and including Things in Action, as may belong to or be vested in the Company

Company at the Date of its Registration under this Act, shall on Registration pass to and vest in the Company as incorporated under this Act, for all the Estate and Interest of the Company therein.

Registration under this Act not to affect Obligations incurred previously to Registration. 21 Vict. c. 49. s. 8.

**193.** The Registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the Liability of such Company to have enforced against it, or its Right to enforce, any Debt or Obligation incurred, or any Contract entered into, by, to, with, or on behalf of such Company, previously to such Registration.

Continuation of existing Actions and Suits. 21 Vict. c. 49. s. 10.

**194.** All such Actions, Suits, and other legal Proceedings as may at the Time of the Registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the Public Officer or any Member thereof, may be continued in the same Manner as if such Registration had not taken place; nevertheless, Execution shall not issue against the Effects of any individual Member of such Company upon any Judgment, Decree, or Order obtained in any Action, Suit, or Proceeding so commenced as aforesaid; but in the event of the Property and Effects of the Company being insufficient to satisfy such Judgment, Decree, or Order, an Order may be obtained for winding up the Company.

Effect of Registration under Act. 21 Vict. c. 14. s. 33. 11 & 12 Vict. c. 45. s. 3.

**195.** When a Company is registered under this Act in pursuance of this Part thereof, all Provisions contained in any Act of Parliament, Deed of Settlement, Cost Book Regulations, Contract of Copartnery, Letters Patent, or other Instrument constituting or regulating the Company, including, in the Case of a Company registered as a Company Limited by Guarantee, the Resolution declaring the Amount of the Guarantee, shall be deemed to be Conditions and Regulations of the Company, in the same Manner and with the same Incidents as if they were contained in a registered Memorandum of Association and Articles of Association; and all the Provisions of this Act shall apply to such Company and the Members, Contributories, and Creditors thereof, in the same Manner in all respects as if it had been formed under this Act, subject to the Provisions following; (that is to say,)

(1.) That Table A. in the First Schedule to this Act shall not, unless adopted by Special Resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(2.) That the Provisions of this Act relating to the numbering of Shares shall not apply to any Joint Stock Company whose Shares are not numbered:

(3.) That no Company shall have Power to alter any Provision contained in any Act of Parliament relating to the Company:

(4.) That no Company shall have Power, without the Sanction of the Board of Trade, to alter any Provision contained in any Letters Patent relating to the Company:

(5.) That in the event of the Company being wound up, every Person shall be a Contributory, in respect of the Debts of the Company contracted prior to Registration, who is liable, at Law or in Equity, to pay or contribute to the Payment of any Debt or Liability of the Company contracted, or any Loss incurred, prior to Registration, or to pay or contribute to the Payment of any Sum for the Adjustment of the Rights of the Members amongst themselves in respect of any such Debt; and every such Contributory shall be liable to contribute to the Assets of the Company, in the course of the Winding-up, all Sums due from him in respect of any such Liability as aforesaid; and in the event of the Death, Bankruptcy, or Insolvency of any such Contributory as last aforesaid, or Marriage of any such Contributory being a Female, the Provisions herein-before contained with respect to the Representatives, Heirs, and Devisees of deceased Contributories, and with reference to the Assignees of bankrupt or insolvent Contributories, and to the Husbands of married Contributories, shall apply:

(6.) That nothing herein contained shall authorize any Company to alter any such Provisions contained in any Deed of Settlement, Cost Book Regulations, Letters Patent, or other Instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the Memorandum of Association, and are not authorized to be altered by this Act:

But nothing herein contained shall derogate from any Power of altering its Constitution or Regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Deed of Settlement, Letters Patent, or other Instrument constituting or regulating the Company.

Power of Court to restrain further Proceedings. 20 Vict. c. 47. s. 84.

**196.** The Court may, at any Time after the Presentation of a Petition for winding up a Company registered in pursuance of this Part of this Act, and before making an Order for winding up the Company, upon the Application by Motion of any Creditor of the Company, restrain further Proceedings in any Action, Suit, or legal Proceeding

Proceeding against any Contributory of the Company as well as against the Company as herein-before provided, upon such Terms as the Court thinks fit.

Effect of Order for winding up Company. 20 Vict. c. 47. s. 73.

**197.** Where an Order has been made for winding up a Company registered in pursuance of this Part of the Act, in addition to the Provisions herein-before contained, it is hereby further provided that no Suit, Action, or other legal Proceeding shall be commenced or proceeded with against any Contributory of the Company in respect of any Debt of the Company, except with the Leave of the Court, and subject to such Terms as the Court may impose.

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## PART VIII.

### Application of Act to unregistered Companies.

Winding-up of unregistered Companies. 11 & 12 Vict. c. 45. ss. 1, 2, 3.

**198.** Subject as herein-after mentioned, any Partnership, Association, or Company consisting of more than *Seven* Members, and not registered under this Act, and herein-after included under the Term unregistered Company, may be wound up under this Act, in the same Manner as if such Partnership, Association, or Company had been formed and registered under this Act, and all the Provisions of this Act with respect to winding up shall apply to such Company, with the following Exceptions and Additions:

(1.) An unregistered Company shall be deemed to be established in that Part of the United Kingdom where its principal Place of Business is situate, or, if it has a principal Place of Business situate in more than One Part of the United Kingdom then for the Purpose of this Part of this Act the Company shall be deemed to be established in each Part of the United Kingdom where it has a principal Place of Business; and where Proceedings for winding up the same are instituted, the principal Place of Business of such Company, or where it has a principal Place of Business situate in more than One Part of the United Kingdom, such One of its principal Places of Business as is situate in that Part of the United Kingdom in which Proceedings are being instituted, shall for all the Purposes of this Part of this Act be deemed to be the registered Office of the Company:

(2.) No unregistered Company shall be wound up under this Act voluntarily or subject to the Supervision of the Court:

(3.) The Circumstances under which an unregistered Company may be wound up are as follows; (that is to say,)

(*a.*) Whenever the Company is dissolved, or has ceased to carry on Business, or is carrying on Business only for the Purpose of winding up its Affairs;

(*b.*) Whenever the Company is unable to pay its Debts;

(*c.*) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up:

(4.) An unregistered Company shall, for the Purposes of this Act, be deemed to be unable to pay its Debts,

See 20 Vict. c. 47. s. 68.
11 & 12 Vict. c. 45. s. 5.

(*a.*) Whenever a Creditor to whom the Company is indebted, at Law or in Equity, by Assignment or otherwise, in a Sum exceeding *Fifty Pounds* then due, has served on the Company, by leaving the same at the principal Place of Business of the Company, or by delivering to the Secretary or some Director or principal Officer of the Company, or by otherwise serving the same in such Manner as the Court may approve or direct, a Demand under his Hand requiring the Company to pay the Sum so due, and the Company has for the Space of *Three* Weeks succeeding the Service of such Demand neglected to pay such Sum, or to secure or compound for the same to the Satisfaction of the Creditor:

(*b.*) Whenever any Action, Suit, or other Proceeding has been instituted against any Member of the Company for any Debt or Demand due, or claimed to be due, from the Company, or from him in his Character of Member of the Company, and Notice in Writing of the Institution of such Action, Suit, or other legal Proceeding having been served upon the Company by leaving the same at the principal Place of Business of the Company, or by delivering it to the Secretary, or some Director, Manager, or principal Officer of the Company, or by otherwise serving the same in such Manner as the Court may approve or direct, the Company has not within Ten Days after Service of such Notice paid, secured, or compounded for such Debt or Demand, or procured such Action, Suit, or other legal Proceeding to be stayed, or indemnified the Defendant to his reasonable Satisfaction against such Action, Suit, or other legal Proceeding, and against all Costs, Damages, and Expenses to be incurred by him by reason of the same:

(*c.*) Whenever,

(*c.*) Whenever, in England or Ireland, Execution or other Process issued on a Judgment, Decree, or Order obtained in any Court in favour of any Creditor in any Proceeding at Law or in Equity instituted by such Creditor against the Company, or any Member thereof as such, or against any Person authorized to be sued as nominal Defendant on behalf of the Company, is returned unsatisfied:

(*d.*) Whenever, in the Case of an unregistered Company engaged in working Mines within and subject to the Jurisdiction of the Stannaries, a customary Decree or Order absolute for the Sale of the Machinery, Materials, and Effects of such Mine has been made in a Creditor's Suit in the Court of the Vice-Warden:

(*e.*) Whenever, in Scotland, the Induciæ of a Charge for Payment on an Extract Decree, or an Extract registered Bond, or an Extract registered Protest, have expired without Payment being made:

(*f.*) Whenever it is otherwise proved to the Satisfaction of the Court that the Company is unable to pay its Debts.

Who to be deemed a Contributory in the event of Company being wound up. 11 & 12 Vict. c. 45. s. 3.

**199.** In the event of an unregistered Company being wound up every Person shall be deemed to be a Contributory who is liable, at Law or in Equity, to pay or contribute to the Payment of any Debt, Liability, or Loss of the Company, or to pay or contribute to the Payment of any Sum for the Adjustment of the Rights of the Members amongst themselves, and every such Contributory shall be liable to contribute to the Assets of the Company in the course of the Winding-up all Sums due from him in respect of any such Liability as aforesaid; but in the event of the Death, Bankruptcy, or Insolvency of any Contributory, or Marriage of any Female Contributory, the Provisions herein-before contained with respect to the Personal Representatives, Heirs, and Devisees of a deceased Contributory, and to the Assignees of a bankrupt or insolvent Contributory, and to the Husband of married Contributories, shall apply.

Power of Court to restrain further Proceedings. 20 Vict. c. 47. s. 84.

**200.** The Court may, at any Time after the Presentation of a Petition for winding up an unregistered Company, and before making an Order for winding up the Company, upon the Application of any Creditor of the Company, restrain further Proceedings in any Action, Suit, or Proceeding against any Contributory of the Company, or against the Company as herein-before provided, upon such Terms as the Court thinks fit.

 **201.** Where

Effect of Order for winding up Company.

20 Vict. c. 47. s. 68.

**201.** Where an Order has been made for winding up an unregistered Company in addition to the Provisions herein-before contained in the Case of Companies formed under this Act, it is hereby further provided that no Suit, Action, or other legal Proceeding shall be commenced or proceeded with against any Contributory of the Company in respect of any Debt of the Company, except with the Leave of the Court, and subject to such Terms as the Court may impose.

Provision in case of unregistered Company.

11 & 12 Vict. c. 45. s. 29.

**202.** If any unregistered Company has no Power to sue and be sued in a common Name, or if for any Reason it appears expedient, the Court may by the Order made for winding up such Company, or by any subsequent Order, direct that all such Property, Real and Personal, including all Interest, Claims, and Rights into and out of Property, Real and Personal, and including Things in Action, as may belong to or be vested in the Company, or to or in any Person or Persons on Trust for or on behalf of the Company, or any Part of such Property, is to vest in the Official Liquidator or Official Liquidators by his or their official Name or Names, and thereupon the same or such Part thereof as may be specified in the Order shall vest accordingly, and the Official Liquidator or Official Liquidators may, in his or their official Name or Names, or in such Name or Names and after giving such Indemnity as the Court directs, bring or defend any Actions, Suits, or other legal Proceeding relating to any Property vested in him or them, or any Actions, Suits, or other legal Proceedings necessary to be brought or defended for the Purposes of effectually winding up the Company and recovering the Property thereof.

Provisions in this Part of Act cumulative.

**203.** The Provisions made by this Part of the Act with respect to unregistered Companies shall be deemed to be made in addition to and not in restriction of any Provisions herein-before contained with respect to winding up Companies by the Court, and the Court or Official Liquidator may, in addition to anything contained in this Part of the Act, exercise any Powers or do any Act in the Case of unregistered Companies which might be exercised or done by it or him in winding up Companies formed under this Act; but an unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under this Act, and then only to the Extent provided by this Part of this Act.

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## PART IX.

## PART IX.

### Repeal of Acts, and temporary Provisions.

Repeal of Acts.

**204.** After the *Commencement of this Act* there shall be repealed the several Acts specified in the First Part of the Third Schedule hereto, with this Qualification, that so much of the said Acts as is set forth in the Second Part of the said Third Schedule shall be hereby re-enacted and continue in force as if unrepealed.

Saving Clause as to Repeal.

**205.** No Repeal hereby enacted shall affect,

(1.) Anything duly done under any Acts hereby repealed:

(2.) The Incorporation of any Company registered under any Act hereby repealed:

(3.) Any Right or Privilege acquired or Liability incurred under any Act hereby repealed:

(4.) Any Penalty, Forfeiture, or other Punishment incurred in respect of any Offence against any Act hereby repealed:

(5.) Table B. in the Schedule annexed to the Joint Stock Companies Act, 1856, or any Part thereof, so far as the same applies to any Company existing at the Time of the Commencement of this Act.

Saving of existing Proceedings for winding up.

**206.** Where previously to the *Commencement of this Act* an Order has been made for winding up a Company under any Acts or Act hereby repealed, or a Resolution has been passed for winding up a Company voluntarily, such Company shall be wound up in the same Manner and with the same Incidents as if this Act were not passed, and for the Purposes of such Winding-up such repealed Acts or Act shall be deemed to remain in full Force.

Saving of Conveyance Deeds.

**207.** Where previously to the *Commencement of this Act* any Conveyance, Mortgage, or other Deed has been made in pursuance of any Act hereby repealed, such Deed shall be of the same Force as if this Act had not passed, and for the Purposes of such Deed such repealed Act shall be deemed to remain in full Force.

Compulsory Registration of certain Companies. 21 Vict. c. 14. s. 27.

**208.** Every Insurance Company completely registered under the Act passed in the Eighth Year of the Reign of Her present Majesty, Chapter One hundred and ten, intituled "An Act for "the Registration, Incorporation, and Regulation of Joint Stock "Companies," shall on or before the Second Day of November One thousand eight hundred and sixty-two, and every other Company required by any Act hereby repealed to register under the said Joint Stock Companies Acts, or One of such Acts, and which has

has not so registered, shall, on or before the Expiration of the *Thirty-first* Day from the Commencement of this Act, register itself as a Company under this Act, in manner and subject to the Regulations herein-before contained, with this Exception, that no Company completely registered under the said Act of the Eighth Year of the Reign of Her present Majesty shall be required to deliver to the Registrar a Copy of its Deed of Settlement; and for the Purpose of enabling such Insurance Companies as are mentioned in this Section to register under this Act, this Act shall be deemed to come into operation immediately *on the passing thereof;* nevertheless the Registration of such Companies shall not have any Effect until the Time of the *Commencement of this Act.* No Fees shall be charged in respect of the Registration of any Company required to register by this Section.

Penalty on Company not registering. 21 Vict. c. 14. s. 28.

**209.** If any Company required by the last Section to register under this Act makes default in complying with the Provisions thereof, then, from and after the Day upon which such Company is required to register under this Act, until the Day on which such Company is registered under this Act (which it is empowered to do at any Time), the following Consequences shall ensue; (that is to say,)

(1.) The Company shall be incapable of suing either at Law or in Equity, but shall not be incapable of being made a Defendant to a Suit either at Law or in Equity:

(2.) No Dividend shall be payable to any Shareholder in such Company:

(3.) Each Director or Manager of the Company shall for each Day during which the Company so being in default carries on Business incur a Penalty not exceeding Five Pounds, and such Penalty may be recovered by any Person, whether a Shareholder or not in the Company, and be applied by him to his own Use:

Nevertheless, such Default shall not render the Company so being in default illegal, nor subject it to any Penalty or Disability, other than as specified in this Section; and Registration under this Act shall cancel any Penalty or Forfeiture, and put an End to any Disability which any Company may have incurred under any Act hereby repealed by reason of its not having registered under the said Joint Stock Companies Acts, 1856, 1857, or One of them.

Temporary Power for Companies to change registered Office.

**210.** Upon the Application of the Directors of any Company registered under the Joint Stock Companies Acts as herein-before defined, or any of them, made within *One Year* after the Date of the Commencement of this Act, sanctioned by a Resolution passed at an Extraordinary General Meeting, but subject to the Restrictions herein-after

after mentioned, the Board of Trade shall have Authority by their Certificate in Writing to change the registered Office of any such Company from any one Part of the United Kingdom of Great Britain and Ireland to any other Part thereof, and the Registrar of Joint Stock Companies with whom the Memorandum of Registration of such Company has been registered shall, upon receipt of such Certificate, note in Writing upon the Margin or at the Foot of the said Memorandum the Name of the Place to which such registered Office is to be transferred, and the Day upon which such Transfer is pursuant to such Certificate to take place, and shall attach the Certificate to the Memorandum, and the said Registrar shall thereupon transmit to the Registrar of Joint Stock Companies for that Part of the United Kingdom to which the registered Office is to be so transferred Copies of the said Certificate and of the said Memorandum of Registration so noted certified by him; and the said Registrar for the said last-mentioned Part of the United Kingdom, shall, upon receipt of such Copies of Certificate and Memorandum, retain and register the same in like Manner, and on Payment of the like Fees to him as provided in the Case of the Registration of an original Memorandum of Registration, and thereupon the Place of the registered Office shall, from the said last-mentioned Registration and the said Day mentioned in the said Certificate, be the Place mentioned as such on the said Certificate: Provided, however, that such Change shall in no wise alter or affect anything theretofore done by the said Company, or any of their Rights or Liabilities in respect thereof.

Restrictions on Issue of Certificate

**211.** The Board of Trade shall not issue their Certificate in pursuance of the foregoing Section until they are satisfied that an Advertisement of the Intention of the Company to apply to the Board of Trade for a Certificate, with a Declaration that all Parties objecting thereto are forthwith to apply to the Board of Trade, has been published once at the least in each of Four successive Weeks in the Newspapers following; that is to say, in some Newspaper circulating in the District where the registered Office of the Company is situate, and also if the Company is registered in England in the London Gazette, if in Ireland in the Dublin Gazette, if in Scotland in the Edinburgh Gazette, nor until the said Board are satisfied that the Objections, if any, that may be urged against the Issue of such Certificate are groundless.

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# FIRST SCHEDULE.

## TABLE A.

REGULATIONS for MANAGEMENT of a COMPANY LIMITED by SHARES.

*Shares.*

(1.) If several Persons are registered as joint Holders of any Share, any One of such Persons may give effectual Receipts for any Dividend payable in respect of such Share.

(2.) Every Member shall, on Payment of *One Shilling*, or such less Sum as the Company in General Meeting may prescribe, be entitled to a Certificate, under the Common Seal of the Company, specifying the Share or Shares held by him, and the Amount paid up thereon.

(3.) If such Certificate is worn out or lost, it may be renewed, on Payment of *One Shilling* or such less Sum as the Company in General Meeting may prescribe.

*Calls on Shares.*

(4.) The Directors may from Time to Time make such Calls upon the Members, in respect of all Monies unpaid on their Shares as they think fit, provided that *Twenty-one* Days Notice at least is given of each Call, and each Member shall be liable to pay the Amount of Calls so made to the Persons and at the Times and Places appointed by the Directors.

(5.) A Call shall be deemed to have been made at the Time when the Resolution of the Directors authorizing such Call was passed.

(6.) If the Call payable in respect of any Share is not paid before or on the Day appointed for Payment thereof, the Holder for the Time being of such Share shall be liable to pay Interest for the same at the Rate of *Five Pounds* per Cent. per Annum from the Day appointed for the Payment thereof to the Time of the actual Payment.

(7.) The Directors may, if they think fit, receive from any Member willing to advance the same all or any Part of the Monies due upon the Shares held by him beyond the Sums actually called for; and upon the Monies so paid in advance, or so much thereof as from Time to Time exceeds the Amount of the Calls then made upon the Shares in respect of which such Advance has been made, the Company may pay Interest at such Rate as the Member paying such Sum in advance and the Directors agree upon.

*Transfers*

*Transfers of Shares.*

(8.) The Instrument of Transfer of any Share in the Company shall be executed both by the Transferor and Transferee, and the Transferor shall be deemed to remain a Holder of such Share until the Name of the Transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following Form:—

I *A.B.* of in consideration of the Sum of Pounds paid to me by *C.D.* of do hereby transfer to the said *C.D.* the Share [*or* Shares] numbered standing in my Name in the Books of the Company, to hold unto the said *C.D.*, his Executors, Administrators, and Assigns, subject to the several Conditions on which I held the same at the Time of the Execution hereof; and I the said *C.D.* do hereby agree to take the said Share [*or* Shares] subject to the same Conditions. As witness our Hands, the Day of .

(10.) The Company may decline to register any Transfer of Shares made by a Member who is indebted to them.

(11.) The Transfer Books shall be closed during the *Fourteen* Days immediately preceding the Ordinary General Meeting in each Year.

*Transmission of Shares.*

(12.) The Executors or Administrators of a deceased Member shall be the only Persons recognized by the Company as having any Title to his Share.

(13.) Any Person becoming entitled to a Share in consequence of the Death, Bankruptcy, or Insolvency of any Member, or in consequence of the Marriage of any Female Member, may be registered as a Member upon such Evidence being produced as may from Time to Time be required by the Company.

(14.) Any Person who has become entitled to a Share in consequence of the Death, Bankruptcy, or Insolvency of any Member, or in consequence of the Marriage of any Female Member, may, instead of being registered himself, elect to have some Person to be named by him registered as a transferee of such Share.

(15.) The Person so becoming entitled shall testify such Election by executing to his Nominee an Instrument of Transfer of such Share.

(16.) The Instrument of Transfer shall be presented to the Company, accompanied with such Evidence as the Directors may require to prove the Title of the Transferor, and thereupon the Company shall register the Transferee as a Member.

*Forfeiture of Shares.*

(17.) If any Member fails to pay any Call on the Day appointed for Payment thereof, the Directors may, at any Time thereafter, during such Time as the Call remains unpaid, serve a Notice on him, requiring him to pay such Call, together with Interest and any Expenses that may have accrued by reason of such Nonpayment.

(18.) The Notice shall name a further Day, on or before which such Call, and all Interest and Expenses that have accrued by reason of such Nonpayment, are to be paid. It shall also name the Place where Payment is to be made (the Place so named being either the registered Office of the Company or some other Place at which Calls of the Company are usually made payable). The Notice shall also state that in the event of Nonpayment at or before the Time and at the Place appointed the Shares in respect of which such Call was made will be liable to be forfeited.

(19.) If the Requisitions of any such Notice as aforesaid are not complied with, any Share in respect of which such Notice has been given may at any Time thereafter, before Payment of all Calls, Interest, and Expenses due in respect thereof has been made, be forfeited, by a Resolution of the Directors to that Effect.

(20.) Any Share so forfeited shall be deemed to be the Property of the Company, and may be disposed of in such Manner as the Company in General Meeting thinks fit.

(21.) Any Member whose Shares have been forfeited shall notwithstanding be liable to pay to the Company all Calls owing upon such Shares at the Time of the Forfeiture.

(22.) A statutory Declaration in Writing, that the Call in respect of a Share was made and Notice thereof given, and that Default in Payment of the Call was made, and that the Forfeiture of the Share was made by a Resolution of the Directors to that Effect, shall be sufficient Evidence of the Facts therein stated, as against all Persons entitled to such Share, and such Declaration and the Receipt of the Company for the Price of such Share shall constitute a good Title to such Share, and a Certificate of Proprietorship shall be delivered to a Purchaser, and thereupon he shall be deemed the Holder of such Share discharged from all Calls due prior to such Purchase, and he shall not be bound to see to the Application of the Purchase Money, nor shall his Title to such Share be affected by any Irregularity in the Proceedings in reference to such Sale.

*Conversion of Shares into Stock.*

(23.) The Directors may, with the Sanction of the Company previously given in General Meeting, convert any paid up Shares into Stock.

(24.) When any Shares have been converted into Stock, the several Holders of such Stock may thenceforth transfer their respective Interests therein, or any Part of such Interests, in the same Manner and subject to the same Regulations as and subject to which any Shares in the Capital of the Company may be transferred, or as near thereto as Circumstances admit.

(25.) The several Holders of Stock shall be entitled to participate in the Dividends and Profits of the Company according to the Amount of their respective Interests in such Stock; and such Interests shall, in proportion to the Amount thereof, confer on the Holders thereof respectively

respectively the same Privileges and Advantages for the Purpose of voting at Meetings of the Company, and for other Purposes, as would have been conferred by Shares of equal Amount in the Capital of the Company; but so that none of such Privileges or Advantages, except the Participation in the Dividends and Profits of the Company, shall be conferred by any such aliquot Part of Consolidated Stock as would not, if existing in Shares, have conferred such Privileges or Advantages.

*Increase in Capital.*

(26.) The Directors may, with the Sanction of a special Resolution of the Company previously given in General Meeting, increase its Capital by the Issue of new Shares, such aggregate Increase to be of such Amount, and to be divided into Shares of such respective Amounts, as the Company in General Meeting directs, or, if no Direction is given, as the Directors think expedient.

(27.) Subject to any Direction to the contrary that may be given by the Meeting that sanctions the Increase of Capital, all new Shares shall be offered to the Members in proportion to the existing Shares held by them, and such Offer shall be made by Notice specifying the Number of Shares to which the Member is entitled, and limiting a Time within which the Offer, if not accepted, will be deemed to be declined, and after the Expiration of such Time, or on the Receipt of an Intimation from the Member to whom such Notice is given that he declines to accept the Shares offered, the Directors may dispose of the same in such Manner as they think most beneficial to the Company.

(28.) Any Capital raised by the Creation of new Shares shall be considered as Part of the original Capital, and shall be subject to the same Provisions with reference to the Payment of Calls, and the Forfeiture of Shares on Nonpayment of Calls, or otherwise, as if it had been Part of the original Capital.

*General Meetings.*

(29.) The First General Meeting shall be held at such Time, not being more than Six Months after the Registration of the Company, and at such Place, as the Directors may determine.

(30.) Subsequent General Meetings shall be held at such Time and Place as may be prescribed by the Company in General Meeting; and if no other Time or Place is prescribed, a General Meeting shall be held on the *First Monday in February* in every Year, at such Place as may be determined by the Directors.

(31.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(32.) The Directors may, whenever they think fit, and they shall upon a Requisition made in Writing by not less than One Fifth in Number of the Members of the Company, convene an Extraordinary General Meeting.

(33.) Any Requisition made by the Members shall express the Object of the Meeting proposed to be called, and shall be left at the registered Office of the Company.

(34.) Upon the Receipt of such Requisition the Directors shall forthwith proceed to convene an Extraordinary General Meeting. If they do not proceed to convene the same within *Twenty-one* Days from the Date of the Requisition, the Requisitionists, or any other Members amounting to the required Number, may themselves convene an Extraordinary General Meeting.

*Proceedings at General Meetings.*

(35.) *Seven* Days Notice at the least, specifying the Place, the Day, and the Hour of Meeting, and in case of special Business the general Nature of such Business, shall be given to the Members in manner herein-after mentioned, or in such other Manner, if any, as may be prescribed by the Company in General Meeting; but the Non-receipt of such Notice by any Member shall not invalidate the Proceedings at any General Meeting.

(36.) All Business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the Exception of sanctioning a Dividend and the Consideration of the Accounts, Balance Sheets, and the ordinary Report of the Directors.

(37.) No Business shall be transacted at any General Meeting, except the Declaration of a Dividend, unless a Quorum of Members is present at the Time when the Meeting proceeds to Business; and such Quorum shall be ascertained as follows; that is to say, if the Persons who have taken Shares in the Company at the Time of the Meeting do not exceed Ten in Number, the Quorum shall be *Five*; if they exceed Ten there shall be added to the above Quorum One for every *Five* additional Members up to Fifty, and One for every *Ten* additional Members after Fifty, with this Limitation, that no Quorum shall in any Case exceed *Twenty*.

(38.) If within *One Hour* from the Time appointed for the Meeting a Quorum is not present, the Meeting, if convened upon the Requisition of Members, shall be dissolved: In any other Case it shall stand adjourned to the same Day in the next Week, at the same Time and Place; and if at such adjourned Meeting a Quorum is not present, it shall be adjourned sine die.

(39.) The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

(40.) If there is no such Chairman, or if at any Meeting he is not present within Fifteen Minutes after the Time appointed for holding the Meeting, the Members present shall choose some One of their Number to be Chairman.

(41.) The Chairman may, with the Consent of the Meeting, adjourn any Meeting from Time to Time and from Place to Place, but no Business shall be transacted at any adjourned Meeting other than the Business left unfinished at the Meeting from which the Adjournment took place.

(42.) At any General Meeting, unless a Poll is demanded by at least *Five* Members, a Declaration by the Chairman that a Resolution has been carried, and an Entry to that Effect in the Book of Proceedings of the Company, shall be sufficient Evidence of the Fact, without Proof

Proof of the Number or Proportion of the Votes recorded in favour of or against such Resolution.

(43.) If a Poll is demanded by *Five* or more Members it shall be taken in such Manner as the Chairman directs, and the Result of such Poll shall be deemed to be the Resolution of the Company in General Meeting. In the Case of an Equality of Votes at any General Meeting the Chairman shall be entitled to a Second or Casting Vote.

*Votes of Members.*

(44.) Every Member shall have *One Vote* for every Share up to Ten: He shall have an additional Vote for every *Five* Shares beyond the first Ten Shares up to One hundred, and an additional Vote for every *Ten* Shares beyond the first Hundred Shares.

(45.) If any Member is a Lunatic or Idiot he may vote by his Committee, Curator bonis, or other legal Curator.

(46.) If One or more Persons are jointly entitled to a Share or Shares, the Member whose Name stands first in the Register of Members as One of the Holders of such Share or Shares, and no other, shall be entitled to vote in respect of the same.

(47.) No Member shall be entitled to vote at any General Meeting unless all Calls due from him have been paid, and no Member shall be entitled to vote in respect of any Share that he has acquired by Transfer at any Meeting held after the Expiration of *Three* Months from the Registration ofthe Company, unless he has been possessed of the Share in respect of which he claims to vote for at least *Three* Months previously to the Time of holding the Meeting at which he proposes to vote.

(48.) Votes may be given either personally or by Proxy.

(49.) The Instrument appointing a Proxy shall be in Writing, under the Hand of the Appointor, or if such Appointor is a Corporation, under their Common Seal, and shall be attested by One or more Witness or Witnesses: No Person shall be appointed a Proxy who is not a Member of the Company.

(50.) The Instrument appointing a Proxy shall be deposited at the registered Office of the Company not less than *Seventy-two* Hours before the Time for holding the Meeting at which the Person named in such Instrument proposes to vote, but no Instrument appointing a Proxy shall be valid after the Expiration of *Twelve* Months from the Date of its Execution.

(51.) Any Instrument appointing a Proxy shall be in the following Form:—

Company Limited.

I of in the County of
being a Member of the Company Limited, and entitled
to Vote *or* Votes, hereby appoint of
as my Proxy, to vote for me and on my Behalf at the [Ordinary *or* Extraordinary, *as the Case may be*] General Meeting of the Company to be held on the Day of , and at any Adjournment thereof [*or*, at any Meeting of the Company that may be held in the Year ].

As witness my Hand, this Day of

Signed by the said in the Presence of

*Directors.*

(52.) The Number of the Directors, and the Names of the First Directors, shall be determined by the Subscribers of the Memorandum of Association.

(53.) Until Directors are appointed the Subscribers of the Memorandum of Association shall be deemed to be Directors.

(54.) The future Remuneration of the Directors, and their Remuneration for Services performed previously to the First General Meeting, shall be determined by the Company in General Meeting.

*Powers of Directors.*

(55.) The Business of the Company shall be managed by the Directors, who may pay all Expenses incurred in getting up and registering the Company, and may exercise all such Powers of the Company as are not by the foregoing Act, or by these Articles, required to be exercised by the Company in General Meeting, subject nevertheless to any Regulations of these Articles, to the Provisions of the foregoing Act, and to such Regulations, being not inconsistent with the aforesaid Regulations or Provisions, as may be prescribed by the Company in General Meeting; but no Regulation made by the Company in General Meeting shall invalidate any prior Act of the Directors which would have been valid if such Regulation had not been made.

(56.) The continuing Directors may act notwithstanding any Vacancy in their Body.

*Disqualification of Directors.*

(57.) The Office of Director shall be vacated,—

If he holds any other Office or Place of Profit under the Company:

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the Profits of any Contract with the Company;

But the above Rules shall be subject to the following Exceptions: That no Director shall vacate his Office by reason of his being a Member of any Company which has entered into Contracts with or done any Work for the Company of which he is Director; nevertheless he shall not vote in respect of such Contract or Work; and if he does so vote his Vote shall not be counted.

*Rotation of Directors.*

(58.) At the First Ordinary Meeting after the Registration of the Company the whole of the Directors shall retire from Office; and at the First Ordinary Meeting in every subsequent Year *One Third* of the Directors for the Time being, or if their Number is not a Multiple of Three, then the Number nearest to *One Third*, shall retire from Office.

(59.) The *One Third* or other nearest Number to retire during the First and Second Years ensuing the First Ordinary Meeting of the Company shall, unless the Directors agree among themselves, be determined by Ballot:

Ballot: In every subsequent Year the *One Third* or other nearest Number who have been longest in Office shall retire.

(60.) A retiring Director shall be re-eligible.

(61.) The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated Offices by electing a like Number of Persons.

(62.) If at any Meeting at which an Election of Directors ought to take place the Places of the vacating Directors are not filled up, the Meeting shall stand adjourned till the same Day in the next Week, at the same Time and Place; and if at such adjourned Meeting the Places of the vacating Directors are not filled up, the vacating Directors, or such of them as have not had their Places filled up, shall continue in Office until the Ordinary Meeting in the next Year, and so on from Time to Time until their Places are filled up.

(63.) The Company may from Time to Time, in General Meeting, increase or reduce the Number of Directors, and may also determine in what Rotation such increased or reduced Number is to go out of Office.

(64.) Any casual Vacancy occurring in the Board of Directors may be filled up by the Directors, but any Person so chosen shall retain his Office so long only as the vacating Director would have retained the same if no Vacancy had occurred.

(65.) The Company, in General Meeting, may, by a special Resolution, remove any Director before the Expiration of his Period of Office, and may by an ordinary Resolution appoint another Person in his Stead: The Person so appointed shall hold Office during such Time only as the Director in whose Place he is appointed would have held the same if he had not been removed.

*Proceedings of Directors.*

(66.) The Directors may meet together for the Despatch of Business, adjourn, and otherwise regulate their Meetings as they think fit, and determine the Quorum necessary for the Transaction of Business: Questions arising at any Meeting shall be decided by a Majority of Votes: In case of an Equality of Votes the Chairman shall have a Second or Casting Vote: A Director may at any Time summon a Meeting of the Directors.

(67.) The Directors may elect a Chairman of their Meetings, and determine the Period for which he is to hold Office; but if no such Chairman is elected, or if at any Meeting the Chairman is not present at the Time appointed for holding the same, the Directors present shall choose some One of their Number to be Chairman of such Meeting.

(68.) The Directors may delegate any of their Powers to Committees consisting of such Member or Members of their Body as they think fit: any Committee so formed shall, in the Exercise of the Powers so delegated, conform to any Regulations that may be imposed on them by the Directors.

(69.) A Committee may elect a Chairman of their Meetings: If no such Chairman is elected, or if he is not present at the Time appointed for holding the same, the Members present shall choose One of their Number to be Chairman of such Meeting.

(70.) A Committee may meet and adjourn as they think proper: Questions arising at any Meeting shall be determined by a Majority of Votes of the Members present; and in case of an Equality of Votes the Chairman shall have a Second or Casting Vote.

(71.) All Acts done by any Meeting of the Directors, or of a Committee of Directors, or by any Person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some Defect in the Appointment of any such Directors or Persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Director.

*Dividends.*

(72.) The Directors may, with the Sanction of the Company in General Meeting, declare a Dividend to be paid to the Members in proportion to their Shares.

(73.) No Dividend shall be payable except out of the Profits arising from the Business of the Company.

(74.) The Directors may, before recommending any Dividend, set aside out of the Profits of the Company such Sum as they think proper as a reserved Fund to meet Contingencies, or for equalizing Dividends, or for repairing or maintaining the Works connected with the Business of the Company, or any Part thereof; and the Directors may invest the Sum so set apart as a reserved Fund upon such Securities as they may select.

(75.) The Directors may deduct from the Dividends payable to any Member all such Sums of Money as may be due from him to the Company on account of Calls or otherwise.

(76.) Notice of any Dividend that may have been declared shall be given to each Member in manner herein-after mentioned; and all Dividends unclaimed for *Three* Years, after having been declared, may be forfeited by the Directors for the Benefit of the Company.

(77.) No Dividend shall bear Interest as against the Company.

*Accounts.*

(78.) The Directors shall cause true Accounts to be kept,—

Of the Stock in Trade of the Company;

Of the Sums of Money received and expended by the Company, and the Matter in respect of which such Receipt and Expenditure takes place; and,

Of the Credits and Liabilities of the Company:

The Books of Account shall be kept at the registered Office of the Company, and, subject to any reasonable Restrictions as to the Time and Manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the Inspection of the Members during the Hours of Business:

(79.) Once

(79.) Once at the least in every Year the Directors shall lay before the Company in General Meeting a Statement of the Income and Expenditure for the past Year, made up to a Date not more than *Three* Months before such Meeting.

(80.) The Statement so made shall show, arranged under the most convenient Heads, the Amount of gross Income, distinguishing the several Sources from which it has been derived, and the Amount of gross Expenditure, distinguishing the Expense of the Establishment, Salaries, and other like Matters. Every Item of Expenditure fairly chargeable against the Year's Income shall be brought into Account so that a just Balance of Profit and Loss may be laid before the Meeting; and in Cases where any Item of Expenditure which may in Fairness be distributed over several Years has been incurred in any One Year the whole Amount of such Item shall be stated, with the Addition of the Reasons why only a Portion of such Expenditure is charged against the Income of the Year.

(81.) A Balance Sheet shall be made out in every Year, and laid before the Company in General Meeting, and such Balance Sheet shall contain a Summary of the Property and Liabilities of the Company arranged under the Heads appearing in the Form annexed to this Table, or as near thereto as Circumstances admit.

(82.) A printed Copy of such Balance Sheet shall, *Seven* Days previously to such Meeting, be served on every Member in the Manner in which Notices are herein-after directed to be served.

*Audit.*

(83.) Once at the least in every Year the Accounts of the Company shall be examined, and the Correctness of the Balance Sheet ascertained, by One or more Auditor or Auditors.

(84.) The First Auditors shall be appointed by the Directors: Subsequent Auditors shall be appointed by the Company in General Meeting.

(85.) If One Auditor only is appointed, all the Provisions herein contained relating to Auditors shall apply to him.

(86.) The Auditors may be Members of the Company; but no Person is eligible as an Auditor who is interested otherwise than as a Member in any Transaction of the Company; and no Director or other Officer of the Company is eligible during his Continuance in Office.

(87.) The Election of Auditors shall be made by the Company at their Ordinary Meeting in each Year.

(88.) The Remuneration of the First Auditors shall be fixed by the Directors; that of subsequent Auditors shall be fixed by the Company in General Meeting.

(89.) Any Auditor shall be re-eligible on his quitting Office.

(90.) If any casual Vacancy occurs in the Office of any Auditor appointed by the Company, the Directors shall forthwith call an Extraordinary General Meeting for the Purpose of supplying the same.

(91.) If no Election of Auditors is made in manner aforesaid the Board of Trade may, on the Application of not less than *Five* Members of the Company, appoint an Auditor for the current Year,

and fix the Remuneration to be paid to him by the Company for his Services.

(92.) Every Auditor shall be supplied with a Copy of the Balance Sheet, and it shall be his Duty to examine the same, with the Accounts and Vouchers relating thereto.

(93.) Every Auditor shall have a List delivered to him of all Books kept by the Company, and shall at all reasonable Times have Access to the Books and Accounts of the Company: He may, at the Expense of the Company, employ Accountants or other Persons to assist him in investigating such Accounts, and he may in relation to such Accounts examine the Directors or any other Officer of the Company.

(94.) The Auditors shall make a Report to the Members upon the Balance Sheet and Accounts, and in every such Report they shall state whether, in their Opinion, the Balance Sheet is a full and fair Balance Sheet, containing the Particulars required by these Regulations, and properly drawn up so as to exhibit a true and correct View of the State of the Company's Affairs, and in case they have called for Explanations or Information from the Directors, whether such Explanations or Information have been given by the Directors, and whether they have been satisfactory; and such Report shall be read, together with the Report of the Directors, at the Ordinary Meeting.

*Notices.*

(95.) A Notice may be served by the Company upon any Member either personally, or by sending it through the Post in a prepaid Letter addressed to such Member at his registered Place of Abode.

(96.) All Notices directed to be given to the Members shall, with respect to any Share to which Persons are jointly entitled, be given to whichever of such Persons is named first in the Register of Members; and Notice so given shall be sufficient Notice to all the Holders of such Share.

(97.) Any Notice, if served by Post, shall be deemed to have been served at the Time when the Letter containing the same would be delivered in the ordinary Course of the Post; and in proving such Service it shall be sufficient to prove that the Letter containing the Notices was properly addressed and put into the Post Office.

Dr. **BALANCE SHEET of the Co. made up to 18 . Cr.**

| CAPITAL AND LIABILITIES. | | | £ s. d. | £ s. d. | PROPERTY AND ASSETS. | | | £ s. d. | £ s. d. |
|---|---|---|---|---|---|---|---|---|---|
| I. CAPITAL - | | *Showing:* | | | III. PROPERTY held by the Company - | | *Showing:* | | |
| | 1. | *The Number of Shares - -* | | | | 7. | *Immovable Property, distinguishing -* | | |
| | 2. | *The Amount paid per Share - -* | | | | | *(a.) Freehold Land - -* | | |
| | 3. | *If any Arrears of Calls, the Nature of the Arrear, and the Names of the Defaulters.* | | | | | *(b.) " Buildings - -* | | |
| | | | | | | | *(c.) Leasehold " - -* | | |
| | 4. | *The Particulars of any forfeited Shares.* | | | | 8. | *Movable Property, distinguishing -* | | |
| | | | | | | | *(d.) Stock in Trade - -* | | |
| | | *Showing:* | | | | | *(e.) Plant - - -* | | |
| II. DEBTS AND LIABILITIES of the Company - | 5. | *The Amount of Loans on Mortgages or Debenture Bonds.* | | | | | *The Cost to be stated with Deductions for Deterioration in Value as charged to the Reserve Fund or Profit and Loss.* | | |
| | 6. | *The Amount of Debts owing by the Company, distinguishing—* | | | IV. DEBTS owing to the Company - | | *Showing:* | | |
| | | *(a.) Debts for which Acceptances have been given.* | | | | 9. | *Debts considered good for which the Company hold Bills or other Securities.* | | |
| | | *(b.) Debts to Tradesmen for Supplies of Stock in Trade or other Articles.* | | | | 10. | *Debts considered good for which the Company hold no Security.* | | |
| | | *(c.) Debts for Law Expenses.* | | | | 11. | *Debts considered doubtful and bad -* | | |
| | | *(d.) Debts for Interest on Debentures or other Loans.* | | | | | *Any Debt due from a Director or other Officer of the Company to be separately stated.* | | |
| | | *(e.) Unclaimed Dividends.* | | | | | | | |
| | | *(f.) Debts not enumerated above.* | | | | | | | |
| VI. RESERVE FUND - | | *Showing:* *The Amount set aside from Profits to meet Contingencies.* | | | V. CASH AND INVESTMENTS | | *Showing:* | | |
| | | | | | | 12. | *The Nature of Investment and Rate of Interest.* | | |
| VII. PROFIT AND LOSS - | | *Showing:* *The disposable Balance for Payment of Dividend, &c.* | | | | 13. | *The Amount of Cash, where lodged, and if bearing Interest.* | | |
| CONTINGENT LIABILITIES | | *Claims against the Company not acknowledged as Debts.* *Monies for which the Company is contingently liable.* | | | | | | | |

## TABLE B.

TABLE OF FEES to be paid to the REGISTRAR of JOINT STOCK COMPANIES by a Company having a Capital divided into Shares.

| | £ | s. | d. |
|---|---|---|---|
| For Registration of a Company whose nominal Capital does not exceed 2,000*l.*, a Fee of | 2 | 0 | 0 |
| For Registration of a Company whose nominal Capital exceeds 2,000*l.*, the above Fee of 2*l.*, with the following additional Fees, regulated according to the Amount of nominal Capital; (that is to say,) | | | |
| For every 1,000*l.* of nominal Capital, or Part of 1,000*l.*, after the first 2,000*l.*, up to 5,000*l.* | 1 | 0 | 0 |
| For every 1,000*l.* of nominal Capital, or Part of 1,000*l.*, after the first 5,000*l.*, up to 100,000*l.* | 0 | 5 | 0 |
| For every 1,000*l.* of nominal Capital, or Part of 1,000*l.*, after the first 100,000*l.* | 0 | 1 | 0 |
| For Registration of any Increase of Capital made after the First Registration of the Company, the same Fees per 1,000*l.*, or Part of a 1,000*l.*, as would have been payable if such increased Capital had formed Part of the original Capital at the Time of Registration. | | | |
| Provided that no Company shall be liable to pay in respect of nominal Capital on Registration, or afterwards, any greater Amount of Fees than 50*l.*, taking into account in the Case of Fees payable on an Increase of Capital after Registration the Fees paid on Registration. | | | |
| For Registration of any existing Company, except such Companies as are by this Act exempted from Payment of Fees in respect of Registration under this Act, the same Fee as is charged for registering a new Company. | | | |
| For registering any Document hereby required or authorized to be registered, other than the Memorandum of Association | 0 | 5 | 0 |
| For making a Record of any Fact hereby authorized or required to be recorded by the Registrar of Companies, a Fee of | 0 | 5 | 0 |

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## TABLE C.

TABLE OF FEES to be paid to the REGISTRAR of JOINT STOCK COMPANIES by a Company not having a Capital divided into Shares.

| | £ | s. | d. |
|---|---|---|---|
| For Registration of a Company whose Number of Members as stated in the Articles of Association does not exceed 20 | 2 | 0 | 0 |
| For Registration of a Company whose Number of Members, as stated in the Articles of Association, exceeds 20, but does not exceed 100 | 5 | 0 | 0 |
| For Registration of a Company whose Number of Members, as stated in the Articles of Association, exceeds 100, but is not stated to be unlimited, the above Fee of 5*l.*, with an additional | | | |

| | £ | s. | d. |
|---|---|---|---|
| 5*s.* for every 50 Members or less Number than 50 Members after the first 100. | | | |
| For Registration of a Company in which the Number of Members is stated in the Articles of Association to be unlimited, a Fee of - | 20 | 0 | 0 |
| For Registration of any Increase on the Number of Members made after the Registration of the Company in respect of every 50 Members, or less than 50 Members, of such Increase - - | 0 | 5 | 0 |
| Provided that no One Company shall be liable to pay on the whole a greater Fee than 20*l.* in respect of its Number of Members, taking into account the Fee paid on the First Registration of the Company. | | | |
| For Registration of any existing Company, except such Companies as are by this Act exempted from Payment of Fees in respect of Registration under this Act, the same Fee as is charged for registering a new Company. | | | |
| For registering any Document hereby required or authorized to be registered, other than the Memorandum of Association - - | 0 | 5 | 0 |
| For making a Record of any Fact hereby authorized or required to be recorded by the Registrar of Companies, a Fee of - - | 0 | 5 | 0 |

## FORM D.

FORM OF STATEMENT to be published by a Limited Banking Company, or by an Insurance Company.

* The Capital of the Company is , divided into Shares of each.

The Number of Shares issued is .

Calls to the Amount of Pounds per Share have been made, under which the Sum of Pounds has been received.

The Liabilities of the Company on the First Day of January (*or* July) were,—

Debts owing to sundry Persons by the Company :

On Judgment, £

On Specialty, £

On Notes or Bills, £

On Simple Contracts, £

On estimated Liabilities, £

The Assets of the Company on that Day were,—

Government Securities [*stating them*], £

Bills of Exchange and Promissory Notes, £

Cash at the Bankers, £

Other Securities, £

* If the Company has no Capital divided into Shares the Portion of the Statement relating to Capital and Shares must be omitted, and a Declaration substituted that the Company has no Capital divided into Shares.

## SECOND SCHEDULE.

### FORM A.

MEMORANDUM of ASSOCIATION of a Company limited by Shares.

1st. The Name of the Company is "The Eastern Steam Packet Company, "Limited."

2d. The registered Office of the Company will be situate in England.

3d. The Objects for which the Company is established are, "the Conveyance of Passengers and Goods in Ships or Boats between such Places as the "Company may from Time to Time determine, and the doing all such other "Things as are incidental or conducive to the Attainment of the above "Object."

4th. The Liability of the Members is limited.

5th. The Capital of the Company is Two hundred thousand Pounds, divided into One thousand Shares of Twohundred Pounds each.

WE, the several Persons whose Names and Addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the Number of Shares in the Capital of the Company set opposite our respective Names.

| Names, Addresses, and Descriptions of Subscribers. | | Number of Shares taken by each Subscriber. |
|---|---|---|
| "1. John Jones of | in the County of Merchant | 200 |
| "2. John Smith of | in the County of - - | 25 |
| "3. Thomas Green of | in the County of - - | 30 |
| "4. John Thompson of | in the County of - - | 40 |
| "5. Caleb White of | in the County of - - | 15 |
| "6. Andrew Brown of | in the County of - - | 5 |
| "7. Cæsar White of | in the County of - - | 10 |
| | Total Shares taken - - - | 325 |

Dated the 22d Day of November 1861.

Witness to the above Signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

### FORM B.

MEMORANDUM and ARTICLES of ASSOCIATION of a Company limited by Guarantee, and not having a Capital divided into Shares.

*Memorandum of Association.*

1st. The Name of the Company is "The Mutual London Marine Association, "Limited."

2d. The registered Office of the Company will be situate in England.

3d. The Objects for which the Company is established are, "the mutual "Insurance of Ships belonging to Members of the Company, and the doing "all such other Things as are incidental or conducive to the Attainment of "the above Objects."

4th. Every Member of the Company undertakes to contribute to the Assets of the Company in the event of the same being wound up during the Time that he is a Member, or within *One Year* afterwards, for Payment of the Debts and Liabilities of the Company, and the Costs, Charges, and Expenses of winding up the same, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required not exceeding Ten Pounds.

We, the several Persons whose Names and Addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

| | | |
|---|---|---|
| " 1. John Jones of | in the County of | Merchant. |
| " 2. John Smith of | in the County of | |
| " 3. Thomas Green of | in the County of | |
| " 4. John Thompson of | in the County of | |
| " 5. Caleb White of | in the County of | |
| " 6. Andrew Brown of | in the County of | |
| " 7. Cæsar White of | in the County of | |

Dated the 22d Day of November 1861.

Witness to the above Signatures,
A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

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ARTICLES of ASSOCIATION to accompany preceding MEMORANDUM of ASSOCIATION.

(1.) The Company, for the Purpose of Registration, is declared to consist of Five hundred Members.

(2.) The Directors herein-after mentioned may, whenever the Business of the Association requires it, register an Increase of Members.

*Definition of Members.*

(3.) Every Person shall be deemed to have agreed to become a Member of the Company who insures any Ship or Share in a Ship in pursuance of the Regulations herein-after contained.

*General Meetings.*

(4.) The First General Meeting shall be held at such Time, not being more than Three Months after the Incorporation of the Company, and at such Place, as the Directors may determine.

(5.) Subsequent General Meetings shall be held at such Time and Place as may be prescribed by the Company in General Meeting; and if no other Time or Place is prescribed, a General Meeting shall be held on the *First Monday in February* in every Year, at such Place as may be determined by the Directors.

(6.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(7.) The Directors may, whenever they think fit, and they shall, upon a Requisition made in Writing by any *Five* or more Members, convene an Extraordinary General Meeting.

(8.) Any Requisition made by the Members shall express the Object of the Meeting proposed to be called, and shall be left at the registered Office of the Company.

(9.) Upon the Receipt of such Requisition the Directors shall forthwith proceed to convene a General Meeting: If they do not proceed to convene the same within *Twenty-one* Days from the Date of the Requisition, the Requisitionists, or any other *Five* Members, may themselves convene a Meeting.

*Proceedings at General Meetings.*

(10.) *Seven* Days Notice at the least, specifying the Place, the Day and the Hour of Meeting, and in case of special Business the general Nature of such Business, shall be given to the Members in manner herein-after mentioned, or in such other Manner, if any, as may be prescribed by the Company in General Meeting; but the Non-receipt of such Notice by any Member shall not invalidate the Proceedings at any General Meeting.

(11.) All Business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the Exception of the Consideration of the Accounts, Balance Sheets, and the ordinary Report of the Directors.

(12.) No Business shall be transacted at any Meeting except the Declaration of a Dividend, unless a Quorum of Members is present at the Commencement of such Business; and such Quorum shall be ascertained as follows; that is to say, if the Members of the Company at the Time of the Meeting do not exceed Ten in Number, the Quorum shall be *Five;* if they exceed Ten there shall be added to the above Quorum One for every *Five* additional Members up to Fifty, and One for every *Ten* additional Members after Fifty, with this Limitation, that no Quorum shall in any Case exceed *Thirty.*

(13.) If within *One* Hour from the Time appointed for the Meeting a Quorum of Members is not present, the Meeting, if convened upon the Requisition of the Members, shall be dissolved: In any other Case it shall stand adjourned to the same Day in the following Week at the same Time and Place; and if at such adjourned Meeting a Quorum of Members is not present, it shall be adjourned sine die.

(14.) The Chairman (if any) of the Directors shall preside as Chairman at every General Meeting of the Company.

(15.) If there is no such Chairman, or if at any Meeting he is not present at the Time of holding the same, the Members present shall choose some One of their Number to be Chairman of such Meeting.

(16.) The Chairman may, with the Consent of the Meeting, adjourn any Meeting from Time to Time and from Place to Place, but no Business shall be transacted at any adjourned Meeting other than the Business left unfinished at the Meeting from which the Adjournment took place.

(17.) At any General Meeting, unless a Poll is demanded by at least *Five* Members, a Declaration by the Chairman that a Resolution has been carried, and an Entry to that Effect in the Book of Proceedings of the Company,

Company, shall be sufficient Evidence of the Fact, without Proof of the Number or Proportion of the Votes recorded in favour of or against such Resolution.

(18.) If a Poll is demanded in manner aforesaid, the same shall be taken in such Manner as the Chairman directs, and the Result of such Poll shall be deemed to be the Resolution of the Company in General Meeting.

*Votes of Members.*

(19.) Every Member shall have One Vote and no more.

(20.) If any Member is a Lunatic or Idiot he may vote by his Committee, Curator bonis, or other legal Curator.

(21.) No Member shall be entitled to vote at any Meeting unless all Moneys due from him to the Company have been paid.

(22.) Votes may be given either personally or by Proxies: A Proxy shall be appointed in Writing under the Hand of the Appointor, or if such Appointor is a Corporation, under its Common Seal.

(23.) No Person shall be appointed a Proxy who is not a Member, and the Instrument appointing him shall be deposited at the registered Office of the Company not less than *Forty-eight* Hours before the Time of holding the Meeting at which he proposes to vote.

(24.) Any Instrument appointing a Proxy shall be in the following Form:—

Company Limited.

I of in the County of being a Member of the Company Limited, hereby appoint of as my Proxy, to vote for me and on my Behalf at the [Ordinary *or* Extraordinary, *as the Case may be*] General Meeting of the Company to be held on the Day of , and at any Adjournment thereof to be held on the Day of next [*or*, at any Meeting of the Company that may be held in the Year ].

As witness my Hand, this Day of

Signed by the said in the Presence of

*Directors.*

(25.) The Number of the Directors, and the Names of the First Directors, shall be determined by the Subscribers of the Memorandum of Association.

(26.) Until Directors are appointed, the Subscribers of the Memorandum of Association shall for all the Purposes of this Act be deemed to be Directors.

*Powers of Directors.*

(27.) The Business of the Company shall be managed by the Directors, who may exercise all such Powers of the Company as are not hereby required to be exercised by the Company in General Meeting; but no Regulation made by the Company in General Meeting shall invalidate any prior Act of the Directors which would have been valid if such Regulation had not been made.

*Election of Directors.*

(28.) The Directors shall be elected annually by the Company in General Meeting.

*Business of Company.*

[*Here insert Rules as to Mode in which Business of Insurance is to be conducted.*]

*Accounts.*

(29.) The Accounts of the Company shall be audited by a Committee of Five Members, to be called the Audit Committee.

(30.) The first Audit Committee shall be nominated by the Directors out of the Body of Members.

(31.) Subsequent Audit Committees shall be nominated by the Members at the Ordinary General Meeting in each Year.

(32.) The Audit Committee shall be supplied with a Copy of the Balance Sheet, and it shall be their Duty to examine the same with the Accounts and Vouchers relating thereto.

(33.) The Audit Committee shall have a List delivered to them of all Books kept by the Company, and they shall at all reasonable Times have Access to the Books and Accounts of the Company: They may, at the Expense of the Company, employ Accountants or other Persons to assist them in investigating such Accounts, and they may in relation to such Accounts examine the Directors or any other Officer of the Company.

(34.) The Audit Committee shall make a Report to the Members upon the Balance Sheet and Accounts, and in every such Report they shall state whether in their Opinion the Balance Sheet is a full and fair Balance Sheet, containing the Particulars required by these Regulations of the Company, and properly drawn up, so as to exhibit a true and correct View of the State of the Company's Affairs, and in case they have called for Explanation or Information from the Directors, whether such Explanations or Information have been given by the Directors, and whether they have been satisfactory, and such Report shall be read together with the Report of the Directors at the Ordinary Meeting.

*Notices.*

(35.) A Notice may be served by the Company upon any Member either personally, or by sending it through the Post in a prepaid Letter addressed to such Member at his registered Place of Abode.

(36.) Any Notice, if served by Post, shall be deemed to have been served at the Time when the Letter containing the same would be delivered in the ordinary Course of the Post; and in proving such Service it shall be sufficient to prove that the Letter containing the Notice was properly addressed, and put into the Post Office.

*Winding up.*

(37.) The Company shall be wound up voluntarily whenever an Extraordinary Resolution, as defined by the Companies Act, 1862, is passed, requiring the Company to be wound up voluntarily.

Names,

Names, Addresses, and Descriptions of Subscribers.

| | | |
|---|---|---|
| " 1. John Jones of | in the County of | Merchant. |
| " 2. John Smith of | in the County of | |
| " 3. Thomas Green of | in the County of | |
| " 4. John Thompson of | in the County of | |
| " 5. Caleb White of | in the County of | |
| " 6. Andrew Brown of | in the County of | |
| " 7. Cæsar White of | in the County of | |

Dated the 22d Day of November 1861.

Witness to the above Signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

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FORM C.

MEMORANDUM and ARTICLES of ASSOCIATION of a Company limited by Guarantee, and having a Capital divided into Shares.

*Memorandum of Association.*

1st. The Name of the Company is "The Highland Hotel Company, " Limited."

2d. The registered Office of the Company will be situate in Scotland.

3d. The Objects for which the Company is established are " the facilitating " travelling in the Highlands of Scotland, by providing Hotels and Convey- " ances by Sea and by Land, for the Accommodation of Travellers, and the " doing all such other Things as are incidental or conducive to the Attain- " ment of the above Object."

4th. Every Member of the Company undertakes to contribute to the Assets of the Company in the event of the same being wound up during the Time that he is a Member, or within *One Year* afterwards, for Payment of the Debts and Liabilities of the Company contracted before the Time at which he ceases to be a Member, and the Costs, Charges, and Expenses of winding up the same, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required not exceeding *Twenty Pounds.*

WE, the several Persons whose Names and Addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

| | | |
|---|---|---|
| " 1. John Jones of | in the County of | Merchant. |
| " 2. John Smith of | in the County of | |
| " 3. Thomas Green of | in the County of | |
| " 4. John Thompson of | in the County of | |
| " 5. Caleb White of | in the County of | |
| " 6. Andrew Brown of | in the County of | |
| " 7. Cæsar White of | in the County of | |

Dated the 22d Day of November 1861.

Witness to the above Signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

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*Articles of Association to accompany preceding Memorandum of Association.*

1. The Capital of the Company shall consist of Five hundred thousand Pounds, divided into Five thousand Shares of One hundred Pounds each.

2. The Directors may, with the Sanction of the Company in General Meeting, reduce the Amount of Shares.

3. The Directors may, with the Sanction of the Company in General Meeting, cancel any Shares belonging to the Company.

4. All the Articles of Table A. shall be deemed to be incorporated with these Articles, and to apply to the Company.

WE, the several Persons whose Names and Addresses are subscribed, agree to take the Number of Shares in the Capital of the Company set opposite our respective Names.

| Names, Addresses, and Descriptions of Subscribers. | | Number of Shares taken by each Subscriber. |
|---|---|---|
| " 1. John Jones of | in the County of - | 200 |
| " 2. John Smith of | in the County of - | 25 |
| " 3. Thomas Green of | in the County of - | 30 |
| " 4. John Thompson of | in the County of - | 40 |
| " 5. Caleb White of | in the County of - | 15 |
| " 6. Andrew Brown of | in the County of - | 5 |
| " 7. Cæsar White of | in the County of - | 10 |
| Total Shares taken - - - | | 325 |

Dated the 22d Day of November 1861.

Witness to the above Signatures,
A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

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FORM D.

MEMORANDUM and ARTICLES of ASSOCIATION of an unlimited Company, having a Capital divided into Shares.

*Memorandum of Association.*

1st. The Name of the Company is " The Patent Stereotype Company."

2d. The registered Office of the Company will be situate in England.

3d. The Objects for which the Company is established are " the working of " a Patent Method of founding and casting Stereotype Plates, of which Method " John Smith, of London, is the sole Patentee."

4th. The Liability of the Shareholders is unlimited.

WE, the several Persons whose Names are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names,

Names, Addresses, and Descriptions of Subscribers.

| | | |
|---|---|---|
| " 1. John Jones of | in the County of | Merchant. |
| " 2. John Smith of | in the County of | |
| " 3. Thomas Green of | in the County of | |
| " 4. John Thompson of | in the County of | |
| " 5. Caleb White of | in the County of | |
| " 6. Andrew Brown of | in the County of | |
| " 7. Abel Brown of | in the County of | |

Dated 22d Day of November 1861.

Witness to the above Signatures,
A.B., No. 20, Bond Street, Middlesex.

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*Articles of Association to accompany the preceding Memorandum of Association.*

Capital of the Company.

The Capital of the Company is Two thousand Pounds, divided into Twenty Shares of One hundred Pounds each.

Application of Table A.

All the Articles of Table A. shall be deemed to be incorporated with these Articles, and to apply to the Company.

WE, the several Persons whose Names and Addresses are subscribed, agree to take the Number of Shares in the Capital of the Company set opposite our respective Names.

| Names, Addresses, and Descriptions of Subscribers. | | | Number of Shares taken by Subscribers. |
|---|---|---|---|
| " 1. John Jones of | in the County of | Merchant | 1 |
| " 2. John Smith of | in the County of | - | 5 |
| " 3. Thomas Green of | in the County of | - | 2 |
| " 4. John Thompson of | in the County of | - | 2 |
| " 5. Caleb White of | in the County of | - | 3 |
| " 6. Andrew Brown of | in the County of | - | 4 |
| " 7. Abel Brown of | in the County of | - | 1 |
| Total Shares taken - - - | | | 18 |

Dated the 22d Day of November 1861.
Witness to the above Signatures,
A.B., No. 20, Bond-street, Middlesex.

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## FORM E. as required by the Second Part of the Act.

SUMMARY of CAPITAL and SHARES of the COMPANY, made up to the Day of

Nominal Capital £ divided into Shares of £ each.
Number of Shares taken up to the Day of
There has been called up on each Share £
Total Amount of Calls received £
Total Amount of Calls unpaid £

LIST of Persons holding Shares in the Company on the Day of , and of Persons who have held Shares thereon at any Time during the Year immediately preceding the said Day of , showing their Names and Addresses, and an Account of the Shares so held.

| Folio in Register Ledger containing Particulars. | NAMES, ADDRESSES, AND OCCUPATIONS. | | | | ACCOUNT OF SHARES. | | | | | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|
| | Surname. | Christian Name. | Address. | Occupation. | Shares held by existing Members on the Day of | Additional Shares held by existing Members during preceding Year. | | Shares held by Persons no longer Members. | | |
| | | | | | | Number. | Date of Transfer. | Number. | Date of Transfer. | |
| | | | | | | | | | | |

FORM F.

LICENCE to hold LANDS.

The Lords of the Committee of Privy Council appointed for the Consideration of Matters relating to Trade and Foreign Plantations hereby license the Association, Limited, to hold the Lands hereunder described [*insert Description of Lands*]. The Conditions of this Licence are [*insert Conditions, if any*].

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# THIRD SCHEDULE.

## FIRST PART.

| Date and Chapter of Act. | Title of Act. |
|---|---|
| 21 & 22 Geo. 3. c. 46. (Parliament of Ireland.) - | An Act to promote Trade and Manufactures by regulating and encouraging Partnerships. |
| 7 & 8 Vict. c. 110. - | An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies. |
| 7 & 8 Vict. c. 111. - | An Act for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements. |
| 7 & 8 Vict. c. 113. - | An Act to regulate Joint Stock Banks in England. |
| 8 & 9 Vict. c. 98. - | An Act for facilitating the winding up the Affairs of Joint Stock Companies in Ireland unable to meet their pecuniary Engagements. |
| 9 & 10 Vict. c. 28. - | An Act to facilitate the Dissolution of certain Railway Companies. |
| 9 & 10 Vict. c. 75. - | An Act to regulate Joint Stock Banks in Scotland and Ireland. |
| 10 & 11 Vict. c. 78. - | An Act to amend an Act for the Registration, Incorporation, and Regulation of Joint Stock Companies. |
| 11 & 12 Vict. c. 45. - | An Act to amend the Acts for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements, and also to facilitate the Dissolution and winding up of Joint Stock Companies and other Partnerships. |
| 12 & 13 Vict. c. 108. - | An Act to amend the Joint Stock Companies Winding-up Act, 1848. |
| 19 & 20 Vict. c. 47. - | An Act for the Incorporation and Regulation of Joint Stock Companies and other Associations. |
| 20 & 21 Vict. c. 14. - | An Act to amend the Joint Stock Companies Act, 1856. |
| 20 & 21 Vict. c. 49. - | An Act to amend the Law relating to Banking Companies. |
| 20 & 21 Vict. c. 78. - | An Act to amend the Act Seven and Eight Victoria, Chapter One hundred and eleven, for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements, and also the Joint Stock Companies Winding-up Acts, 1848 and 1849. |
| 20 & 21 Vict. c. 80. - | An Act to amend the Joint Stock Companies Act, 1856. |
| 21 & 22 Vict. c. 60. - | An Act to amend the Joint Stock Companies Acts, 1856 and 1857, and the Joint Stock Banking Companies Act, 1857. |
| 21 & 22 Vict. c. 91. - | An Act to enable Joint Stock Banking Companies to be formed on the Principle of Limited Liability. |

SECOND

## SECOND PART.

7 & 8 Vict. c. 113. s. 47.

Existing Companies to have the Powers of suing and being sued.

Every Company of more than Six Persons established on the Sixth Day of May One thousand eight hundred and forty-four, for the Purpose of carrying on the Trade or Business of Bankers within the Distance of Sixty-five Miles from London, and not within the Provisions of the Act passed in the Session holden in the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, shall have the same Powers and Privileges of suing and being sued in the Name of any One of the Public Officers of such Copartnership as the nominal Plaintiff, Petitioner, or Defendant on behalf of such Copartnership; and all Judgments, Decrees, and Orders made and obtained in any such Suit may be enforced in like Manner as is provided with respect to such Companies carrying on the said Trade or Business at any Place in England exceeding the Distance of Sixty-five Miles from London, under the Provisions of an Act passed in the Seventh Year of the Reign of King George the Fourth, Chapter Forty-six, intituled "An Act for the "better regulating Copartnerships of certain Bankers in England, and for "amending so much of an Act of the Thirty-ninth and Fortieth Years of the "Reign of His late Majesty King George the Third, intituled 'An Act for "'establishing an Agreement with the Governor and Company of the Bank "'of England for advancing the Sum of Three Millions towards the "'Supply for the Service of the Year One thousand eight hundred,' as "relates to the same," provided that such first-mentioned Company shall make out and deliver from Time to Time to the Commissioners of Stamps and Taxes the several Accounts or Returns required by the last-mentioned Act, and all the Provisions of the last-recited Act as to such Accounts or Returns shall be taken to apply to the Accounts or Returns so made out and delivered by such first-mentioned Companies as if they had been originally included in the Provisions of the last-recited Act.

20 & 21 Vict. c. 49., Part of Section XII.

Power to form Banking Partnerships of Ten Persons.

Notwithstanding anything contained in any Act passed in the Session holden in the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, and intituled "An Act to regulate Joint "Stock Banks in England," or in any other Act, it shall be lawful for any Number of Persons, not exceeding Ten, to carry on in Partnership the Business of Banking, in the same Manner and upon the same Conditions in all respects as any Company of not more than Six Persons could before the passing of this Act have carried on such Business.

# Companies, &c.

A

# BILL

For the Incorporation, Regulation, and Winding-up of Trading Companies and other Associations.

(*Prepared and brought in by Mr. Massey, The Solicitor General, and Mr. Milner Gibson.*)

[*Price* 1*s.* 1*d.*]

*Ordered, by* The House of Commons, *to be Printed,* 10 *April* 1862.

[Bill 85.]

*Under* 13 *oz.*

# Companies, &c. Bill.

[AS AMENDED IN COMMITTEE.]

## ARRANGEMENT OF CLAUSES.


| | Corresponding Clauses in former Acts. |
|---|---|
| *Preliminary.* | |
| 1. Short Title of Act. | |
| 2. Commencement of Act. | |
| 3. Prohibition of Partnerships exceeding certain Number | 20 Vict. c. 47. s. 4.<br>21 Vict. c. 49. s. 13. |
| 4. Division of Act. | |
| **PART I.** | |
| CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT. | |
| *Memorandum of Association.* | |
| 5. Mode of forming Company | 20 Vict. c. 47. s. 3. |
| 6. Mode of limiting Liability of Members. | |
| 7. Memorandum of Association of a Company limited by Shares | 20 Vict. c. 47. s. 5. |
| 8. Memorandum of Association of a Company limited by Guarantee. | |
| 9. Memorandum of Association of an Unlimited Company | 20 Vict. c. 47. s. 10. |
| 10. Stamp, Signature, and Effect of Memorandum of Association | 20 Vict. c. 47. s. 7. |
| 11. Power of certain Companies to alter Memorandum of Association | 20 Vict. c. 47. s. 37. |
| 12. Power of Companies to change Name. | |
| *Articles of Association.* | |
| 13. Regulations to be prescribed by Articles of Association | 20 Vict. c. 47. s. 9. |
| 14. Application of Table A. | 20 Vict. c. 47. s. 9. |
| 15. Stamp, Signature, and Effect of Articles of Association | 20 Vict. c. 47. s. 11. |
| *General Provisions.* | |
| 16. Registration of Memorandum of Association and Articles of Association, with Fees, as in Table B. | 20 Vict. c. 47. s. 12. |
| 17. Effect of Registration | 20 Vict. c. 47. s. 13.<br>21 Vict. c. 14. s. 4. |
| 18. Copies of Memorandum and Articles to be given to Members | 20 Vict. c. 47. s. 27.<br>21 Vict. c. 14. s. 10. |
| 19. Prohibition against Identity of Names in Companies | 20 Vict. c. 47. s. 6. |
| 20. Prohibition against certain Companies holding Land. | 20 Vict. c. 47. s. 38. |

## PART II.

### Distribution of Capital and Liability of Members of Companies and Associations under this Act.


| | Corresponding Clauses in former Acts. |
|---|---|
| ***Distribution of Capital.*** | |
| 21. Nature of Interest in Company | 20 Vict. c. 47. s. 15. |
| 22. Definition of "Member" | 20 Vict. c. 47. ss. 8. 19. |
| 23. Transfer by Personal Representative. | |
| 24. Register of Members | 20 Vict. c. 47. ss. 16, 17. |
| 25. Annual List of Members | 20 Vict. c. 47. s. 17. |
| 26. Penalty on Company not keeping a proper Register | 20 Vict. c. 47. s. 18. |
| 27. Company to give Notice of Conversion of Capital into Stock | 21 Vict. c. 14. s. 6. |
| 28. Effect of Conversion of Shares into Stock | 21 Vict. c. 14. s. 7. |
| 29. Entry of Trusts on Register | 20 Vict. c. 47. s. 19.<br>21 Vict. c. 49. s. 15. |
| 30. Certificate of Shares or Stock | 20 Vict. c. 47. s. 21. |
| 31. Inspection of Register | 20 Vict. c. 47. s. 23. |
| 32. Power to close Register | 20 Vict. c. 47. s. 24. |
| 33. Notice of Increase of Capital and of Members to be given to Registrar | 20 Vict. c. 47. s. 37. |
| 34. Remedy for improper Entry or Omission of Entry in Register | 20 Vict. c. 47. s. 25.<br>21 Vict. c. 14. s. 9. |
| 35. Notice to Registrar of Rectification of Register. | |
| 36. Register to be Evidence | 20 Vict. c. 47. s. 26. |
| ***Liability of Members.*** | |
| 37. Liability of present and past Members of Company | 20 Vict. c. 47. s. 62. |


## PART III.

### Management and Administration of Companies and Associations under this Act.


| | |
|---|---|
| ***Provisions for Protection of Creditors.*** | |
| 38. Registered Office of Company | 20 Vict. c. 47. s. 28. |
| 39. Notice of Situation of registered Office | 20 Vict. c. 47. s. 29. |
| 40. Publication of Name by a Limited Company | 20 Vict. c. 47. s. 30. |
| 41. Penalties on Non-publication of Name | 20 Vict. c. 47. s. 31. |
| 42. Register of Mortgages. | |
| 43. Limited Banking and Insurance Companies to publish Statement entered in Schedule. | 22 Vict. c. 91. s. 4. |
| 44. List of Directors to be sent to Registrar. | |
| 45. Penalty on Company not keeping Register of Directors. | |
| 46. Promissory Notes and Bills of Exchange | 20 Vict. c. 47. s. 43. |
| 47. Prohibition against carrying on Business with less than Seven Members | 20 Vict. c. 47. s. 39. |

| | Corresponding Clauses in former Acts. |
|---|---|
| ***Provisions for Protection of Members.*** | |
| 48. General Meeting of Company | 20 Vict. c. 47. s. 32. |
| 49. Power to alter Regulations by Special Resolution | 20 Vict. c. 47. s. 33. |
| 50. Definition of Special Resolution | 20 Vict. c. 47. s. 34. |
| 51. Provision where no Regulations as to Meetings. | |
| 52. Registry of Special Resolutions | 20 Vict. c. 47. s. 35. |
| 53. Copies of Special Resolutions | 20 Vict. c. 47. s. 36. |
| 54. Execution of Deeds abroad | 20 Vict. c. 47. s. 42. |
| 55. Examination of Affairs of Company by Inspectors | 20 Vict. c. 47. s. 48.<br>21 Vict. c. 49. s. 14. |
| 56. Application for Inspection to be supported by Evidence. | |
| 57. Inspection of Books | 20 Vict. c. 47. s. 49. |
| 58. Result of Examination, how dealt with | 20 Vict. c. 47. s. 50. |
| 59. Power of Company to appoint Inspectors | 20 Vict. c. 47. s. 51. |
| 60. Report of Inspectors to be Evidence | 20 Vict. c. 47. s. 52. |
| ***Notices.*** | |
| 61. Service of Notices on Company | 20 Vict. c. 47. s. 53. |
| 62. Rules as to Notices by Letter | 20 Vict. c. 47. s. 54. |
| 63. Authentication of Notices of Company | 20 Vict. c. 47. s. 55. |
| ***Legal Proceedings.*** | |
| 64. Recovery of Penalties | 20 Vict. c. 47. s. 56. |
| 65. Application of Penalties | 20 Vict. c. 47. s. 56. |
| 66. Evidence of Proceedings at Meetings | 20 Vict. c. 47. s. 40.<br>8 Vict. c. 16. ss. 98, 99. |
| 67. Jurisdiction of Vice-Warden of Stannaries. | |
| 68. Provision as to Costs in Actions brought by certain Limited Companies | 21 Vict. c. 14. s. 24. |
| 69. Declaration in Action against Member. | |
| ***Alteration of Forms.*** | |
| 70. Board of Trade may alter Forms in Schedule | 20 Vict. c. 47. s. 58.<br>21 Vict. c. 14. s. 22. |
| ***Arbitrations.*** | |
| 71. Power for Companies to refer Matters to Arbitration. | |
| 72. Provisions of Railway Companies Arbitration Act to apply. | |

## PART IV.

### Winding up of Companies and Associations under this Act.

#### *Preliminary.*


| | Corresponding Clauses in former Acts. |
|---|---|
| 73. Meaning of Contributory | 20 Vict. c. 47. s. 65. |
| 74. Nature of Liability of Contributory | 21 Vict. c. 14. s. 13. |
| 75. Contributories in case of Death | 20 Vict. c. 47. s. 65. |
| 76. Contributories in case of Bankruptcy | 12 & 13 Vict. c. 108. s. 14. |
| 77. Contributories in case of Marriage | 12 & 13 Vict. c. 108. s. 14. |


#### *Winding up by Court.*


| | |
|---|---|
| 78. Circumstances under which Company may be wound up by Court | 20 Vict. c. 47. s. 67. |
| 79. Company when deemed unable to pay its Debts | 20 Vict. c. 47. s. 68. |
| 80. Definition of "the Court" | 20 Vict. c. 47. s. 60.<br>20 & 21 Vict. c. 78. s. 12. |
| 81. Application for winding up to be made by Petition | 20 Vict. c. 47. s. 69. |
| 82. Powers of Court. | |
| 83. Commencement of winding up by Court | 20 Vict. c. 47. s. 64. |
| 84. Court may grant Injunction | 20 Vict. c. 47. s. 84. |
| 85. Course to be pursued by Court on hearing Petition | 20 Vict. c. 47. ss. 70, 71, 72. |
| 86. Actions and Suits to be stayed after Order for winding up | 20 Vict. c. 47. s. 84. |
| 87. Copy of Order to be forwarded to Registrar | 20 Vict. c. 47. s. 73. |
| 88. Power of Court to stay Proceedings | 20 Vict. c. 47. s. 85. |
| 89. Effect of Order on Share Capital of Company limited by Guarantee. | |
| 90. Court may have regard to Wishes of Creditors or Contributories. | |


#### *Official Liquidators.*


| | |
|---|---|
| 91. Appointment of Official Liquidator | 20 Vict. c. 47. s. 88. |
| 92. Resignations, Removals, filling up Vacancies, and Compensation | 20 Vict. c. 47. s. 72. |
| 93. Style and Duties of Official Liquidator | 20 Vict. c. 47. s. 89. |
| 94. Powers of Official Liquidator | 20 Vict. c. 47. s. 90.<br>22 Vict. c. 60. s. 18. |
| 95. Discretion of Official Liquidator | 22 Vict. c. 60. s. 9. |
| 96. Appointment of Solicitor to Official Liquidator | 20 Vict. c. 47. s. 91. |


#### *Ordinary Powers of Court.*


| | |
|---|---|
| 97. Collection and Application of Assets | 20 Vict. c. 47. s. 75. |
| 98. Provision as to representative Contributories | 11 & 12 Vict. c. 45. s. 76. |
| 99. Power of Court to require Delivery of Property | 11 & 12 Vict. c. 45. s. 66. |
| 100. Power of Court to order Payment of Debts by Contributory | 11 & 12 Vict. c. 45. s. 66. |
| 101. Power of Court to make Calls | 20 Vict. c. 47. s. 82. |

| | Corresponding Clauses in former Acts. |
|---|---|
| 102. Power of Court to order Payment into Bank. | |
| 103. Regulation of Account with Court - - | 12 & 13 Vict. c. 106. s. 39. |
| 104. Provision in case of representative Contributory not paying Monies ordered. | |
| 105. Order conclusive Evidence - - - | 11 & 12 Vict. c. 45. s. 89. |
| 106. Court may exclude Creditors not proving within a certain Time - - - | 20 Vict. c. 47. s. 84. |
| 107. Proceedings in the Court of the Vice Warden of the Stannaries. | |
| 108. Court to adjust Rights of Contributories - | 20 Vict. c. 47. s. 86. |
| 109. Court to order Costs - - - - | 20 Vict. c. 47. s. 87. |
| 110. Dissolution of Company - - - - | 20 Vict. c. 47. s. 93. |
| 111. Registrar to make Minute of Dissolution of Company - - - - | 20 Vict. c 47. s. 94. |
| 112. Penalty on not reporting Dissolution of Company - - - - - | 21 Vict. c. 14. s. 20. |
| 113. Petition to be Lis pendens - - - | 11 & 12 Vict. c. 45. s. 125. |

*Extraordinary Powers of Court.*

| | |
|---|---|
| 114. Power of Court to summon Persons before it suspected of having Property of Company - | 20 Vict. c. 47. s. 77.<br>11 & 12 Vict. c. 45. s. 63. |
| 115. Special Provisions as to Court of Vice-Warden of the Stannaries. | |
| 116. Examination of Parties by Court - - | 20 Vict. c. 47. s. 78. |
| 117. Power to arrest Contributory about to abscond, or to remove or conceal any of his Property | 21 Vict. c. 14. s. 11. |
| 118. Powers of Court cumulative. | |

*Enforcement of and Appeal from Orders.*

| | |
|---|---|
| 119. Power to enforce Orders - - - - | 20 Vict. c. 47. s. 60. |
| 120. Power to order Contributories in Scotland to pay Calls - - - - - | 22 Vict. c. 60. s. 5. |
| 121. Order made in England to be enforced in Ireland and Scotland - - - | 22 Vict. c. 60. s. 12. |
| 122. Mode of dealing with Orders to be enforced by other Courts - - - | 22 Vict. c. 60. s. 13. |
| 123. Appeals from Orders - - - - | 11 & 12 Vict. c. 45. ss. 101, 102.<br>12 & 13 Vict. c. 108. s. 33. |
| 124. Judicial Notice to be taken of Signature of Officers - - - - - - | 11 & 12 Vict. c. 45. s. 111. |
| 125. Special Commissioners for receiving Evidence | 20 Vict. c. 47. s. 101. |
| 126. Court may order the Examination of Persons in Scotland - - - - - | 12 & 13 Vict. c. 108. s. 21. |
| 127. Affidavits, &c. may be sworn in Ireland, Scotland, or the Colonies, before any competent Court or Person - - - | 12 & 13 Vict. c. 108. s. 24. |

*Voluntary Winding-up of Company.*

| | |
|---|---|
| 128. Circumstances under which Company may be wound up voluntarily - - - | 20 Vict. c. 47. s. 102. |
| 129. Commencement of voluntary Winding-up - | 20 Vict. c. 47. s. 64. |
| 130. Effect of voluntary Winding-up on Status of Company - - - - - - | 20 Vict. c. 47. s. 104. |

| | Corresponding Clauses in former Acts. |
|---|---|
| 131. Notice of Resolution to wind up voluntarily | 20 Vict. c. 47. s. 103. |
| 132. Consequences of voluntary Winding-up | 20 Vict. c. 47. s. 104. |
| 133. Effect of Winding-up on Share Capital of Company limited by Guarantee. | |
| 134. Power of Company to delegate Authority to appoint Liquidators. | |
| 135. Arrangement when binding on Creditors. | |
| 136. Power of Creditor or Contributory to appeal. | |
| 137. Power for Liquidators or Contributories in voluntary Winding-up to apply to Court | 22 Vict. c. 60. s. 14. |
| 138. Power of Liquidators to call General Meeting | 21 Vict. c. 14. s. 18. |
| 139. Power to fill up Vacancy in Liquidators | 22 Vict. c. 60. s. 15. |
| 140. Power of Court to appoint Liquidators. | |
| 141. Liquidators on Conclusion of Winding-up to make up an Account | 20 Vict. c. 47. s. 104. |
| 142. Liquidators to report Meeting to Registrar | 20 Vict. c. 47. s. 104. |
| 143. Costs of voluntary Liquidation | 20 Vict. c. 47. s. 104. |
| 144. Saving of Rights of Creditors | 20 Vict. c. 47. s. 105. |
| 145. Power of Court to adopt Proceedings of voluntary Winding-up | 21 Vict. c. 14. s. 19. |


*Winding up subject to the Supervision of the Court.*


| | |
|---|---|
| 146. Power of Court, on Application, to direct Winding-up, subject to Supervision | 21 Vict. c. 14. s. 19. |
| 147. Petition for winding up, subject to Supervision | 22 Vict. c. 60. s. 2. |
| 148. Court may have regard to Wishes of Creditors. | |
| 149. Power of Court to appoint additional Liquidators in Winding-up, subject to Supervision | 22 Vict. c. 60. s. 15. |
| 150. Effect of Order of Court for winding up, subject to Supervision | 22 Vict. c. 60. s. 4. |
| 151. Appointment in certain Cases of voluntary Liquidators to Office of Official Liquidators | 22 Vict. c. 60. s. 8. |


*Supplemental Provisions.*


| | |
|---|---|
| 152. Dispositions after the Commencement of the Winding-up avoided | 20 Vict. c. 47. s. 73. |
| 153. The Books of the Company to be Evidence | 20 Vict. c. 47. s. 81. |
| 154. As to Disposal of Books, Accounts, and Documents of the Company. | |
| 155. Inspection of Books | 22 Vict. c. 60. s. 7. |
| 156. Power of Assignee to sue. | |
| 157. Debts of all Descriptions to be proved | 12 & 13 Vict. c. 106. s. 178. |
| 158. General Scheme of Liquidation may be sanctioned | 22 Vict. c. 60. s. 10. |
| 159. Power to compromise | 22 Vict. c. 60. s. 19. |
| 160. Power for Liquidators to accept Shares, &c. as a Consideration for Sale of Property of Company | 21 Vict. c. 14. s. 17. |
| 161. Mode of determining Price. | |
| 162. Certain Attachments, Sequestrations, and Executions to be void | 20 Vict. c. 47. s. 80. |

| | Corresponding Clauses former Acts. |
|---|---|
| 163. Fraudulent Preference | 20 Vict. c. 47. s. 76. |
| 164. Power of Court to assess Damages against delinquent Directors and Officers. | |
| 165. Penalty on Falsification of Books | 20 Vict. c. 47. s. 79. |
| 166. Prosecution of delinquent Directors in the Case of winding up by Court | 22 Vict. c. 60. s. 20. |
| 167. Prosecution of delinquent Directors, &c. in case of voluntary Winding-up | 22 Vict. c. 60. s. 21. |
| 168. Penalty on Perjury | 11 & 12 Vict. c. 45. s. 113. |

*Power of Courts to make Rules.*

| | |
|---|---|
| 169. CLAUSE A. Power of Lord Chancellor of Great Britain to make Rules | 20 Vict. c. 47. s. 95. |
| 170. Power of Court of Session in Scotland to make Rules | 20 Vict. c. 47. s. 97. |
| 171. Power to make Rules in Stannaries Court | 20 Vict. c. 47. s. 98. |
| 172. CLAUSE B. Power of Lord Chancellor of Ireland to make Rules | 20 Vict. c. 47. s. 96. |

PART V.

REGISTRATION OFFICE.

| | |
|---|---|
| 173. Constitution of Registration Office | 20 Vict. c. 47. s. 106. |

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.

| | |
|---|---|
| 174. Definition of Joint Stock Companies Acts. | |
| 175. Application of Act to Companies formed under Joint Stock Companies Acts. | |
| 176. Application of Act to Companies registered under Joint Stock Companies Acts. | |
| 177. Mode of transferring Shares. | |

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

| | |
|---|---|
| 178. CLAUSE C. Regulations as to Registration of existing Companies | 21 Vict. c. 14. s. 29. |
| 179. CLAUSE D. Companies capable of being registered | 21 Vict. c. 14. s. 29. |
| 180. Definition of Joint Stock Company. | |
| 181. Proviso as to Banking Company issuing Notes | 22 Vict. c. 91. s. 1. |
| 182. Requisitions for Registration by Companies | 20 Vict. c. 47. s. 111. |
| 183. Requisitions for Registration by existing Company not being a Joint Stock Company. | |

| | Corresponding Clauses in former Acts. |
|---|---|
| 184. Power for existing Company to register Amount of Stock instead of Shares - | 21 Vict. c. 14. s. 30. |
| 185. Authentication of Statements of existing Companies - - - - - | 20 Vict. c. 47. s. 112. |
| 186. Registrar may require Evidence as to Nature of Company. | |
| 187. On Registration with Limited Liability Notice to be given to Customers - - | 22 Vict. c. 91. s. 3. |
| 188. Exemption of certain Companies from Payment of Fees - - - - | 21 Vict. c. 14. s. 32. |
| 189. Power to Company to change Name - - | 20 Vict. c. 47. s. 114. |
| 190. Certificate of Registration of existing Companies - - - - - | 20 Vict. c. 47. s. 113. |
| 191. Certificate to be Evidence of Compliance with Act - - - - - | 20 Vict. c. 47. s. 115. |
| 192. Transfer of Property to Company - - | 21 Vict. c. 49. s. 16. |
| 193. Registration under this Act not to affect Obligations incurred previously to Registration - - - - - | 21 Vict. c. 49. s. 8. |
| 194. Continuation of existing Actions and Suits - | 21 Vict c. 49. s. 10. |
| 195. Effect of Registration under Act - | 21 Vict. c. 14. s. 33.<br>11 & 12 Vict. c. 45. s. 3. |
| 196. Power of Court to restrain further Proceedings - - - - - | 20 Vict. c. 47. s. 84. |
| 197. Effect of Order for winding up Company - | 20 Vict. c. 47. s. 73. |


## PART VIII.

### Application of Act to unregistered Companies


| | |
|---|---|
| 198. Winding up of unregistered Companies - | 11 & 12 Vict. c. 45. ss. 1, 2, 3. |
| 199. Who to be deemed a Contributory in the event of Company being wound up - | 11 & 12 Vict. c. 45. s. 3. |
| 200. Power of Court to restrain further Proceedings - - - - - | 20 Vict. c. 47. s. 84. |
| 201. Effect of Order for winding up Company - | 20 Vict. c. 47. s. 68. |
| 202. Provision in case of unregistered Company - | 11 & 12 Vict. c. 45. s. 29. |
| 203. Provisions in this Part of Act cumulative. | |


## PART IX.

### Repeal of Acts, and temporary Provisions.


| | |
|---|---|
| 204. Repeal of Acts. | |
| 205. Saving Clause as to Repeal. | |
| 206. Saving of existing Proceedings for winding up. | |
| 207. Saving of Conveyance Deeds. | |
| 208. Compulsory Registration of certain Companies | 21 Vict. c. 14. s. 27. |
| 209. Penalty on Company not registering - | 21 Vict. c. 14. s. 28. |
| 210. Temporary Power for Company to change registered Office. | |
| 211. Restrictions on Issue of Certificate. | |

SCHEDULES.

A

# B I L L

[AS AMENDED IN COMMITTEE]

FOR

## The Incorporation, Regulation, and Winding-up of Trading Companies and other Associations.

WHEREAS it is expedient that the Laws relating to the Incorporation, Regulation, and Winding-up of Trading Companies and other Associations should be consolidated and amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

*Preliminary.*

**1.** This Act may be cited for all Purposes as "The Companies Act, 1862." Short Title of Act.

**2.** This Act, with the Exception of such temporary Enactment as is herein-after declared to come into operation immediately, shall not come into operation until the Second Day of November One thousand eight hundred and sixty-two, and the Time at which it so comes into operation is herein-after referred to as the Commencement of this Act. Commencement of Act.

**3.** No Company, Association, or Partnership consisting of more than Ten Persons shall be formed, after the Commencement of this Act, for Prohibition of Partnerships ex-

ceeding certain Number. 20 Vict. c. 47. s. 4. 21 Vict. c. 49. s. 13.

for the Purpose of carrying on the Business of Banking, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act of Parliament, or of Letters Patent; and no Company, Association, or Partnership consisting of more than Twenty Persons shall be formed, after the Commencement of this Act, for the Purpose of carrying on any other Business that has for its Object the Acquisition of Gain by the Company, Association, or Partnership, or by the individual Members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act of Parliament, or of Letters Patent, or is a Company engaged in working Mines within and subject to the Jurisdiction of the Stannaries.

Division of Act.

**4.** This Act is divided into Nine Parts, relating to the following Subject Matters:

The First Part,—to the Constitution and Incorporation of Companies and Associations under this Act:

The Second Part,—to the Distribution of the Capital and Liability of Members of Companies and Associations under this Act:

The Third Part,—to the Management and Administration of Companies and Associations under this Act:

The Fourth Part,—to the winding up of Companies and Associations under this Act:

The Fifth Part,—to the Registration Office:

The Sixth Part,—to Application of this Act to Companies registered under the Joint Stock Companies Acts:

The Seventh Part,—to Companies authorized to register under this Act:

The Eighth Part,—to Application of this Act to unregistered Companies:

The Ninth Part,—to Repeal of Acts, and temporary Provisions.

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## PART I.

### Constitution and Incorporation of Companies and Associations under this Act.

#### *Memorandum of Association.*

Mode of forming Company. 20 Vict. c. 47. s. 3.

**5.** Any Seven or more Persons associated for any lawful Purpose may, by subscribing their Names to a Memorandum of Association, and otherwise complying with the Requisitions of this Act in respect of

of Registration, form an incorporated Company, with or without limited Liability.

Mode of limiting Liability of Members.

**6.** The Liability of the Members of a Company formed under this Act may, according to the Memorandum of Association, be limited either to the Amount, if any, unpaid on the Shares respectively held by them, or to such Amount as the Members may respectively undertake by the Memorandum of Association to contribute to the Assets of the Company in the event of its being wound up.

Memorandum of Association of a Company limited by Shares. 20 Vict. c. 47. s. 5.

**7.** Where a Company is formed on the Principle of having the Liability of its Members limited to the Amount unpaid on their Shares, herein-after referred to as a Company limited by Shares, the Memorandum of Association shall contain the following Things; (that is to say,)

(1.) The Name of the proposed Company, with the Addition of the Word "Limited" as the last Word in such Name:

(2.) The Part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered Office of the Company is proposed to be situate:

(3.) The Objects for which the proposed Company is to be established:

(4.) A Declaration that the Liability of the Members is limited:

(5.) The Amount of Capital with which the Company proposes to be registered divided into Shares of a certain fixed Amount:

Subject to the following Regulations:

(1.) That no Subscriber shall take less than One Share:

(2.) That each Subscriber of the Memorandum of Association shall write opposite to his Name the Number of Shares he takes.

Memorandum of Association of a Company limited by Guarantee.

**8.** Where a Company is formed on the Principle of having the Liability of its Members limited to such Amount as the Members respectively undertake to contribute to the Assets of the Company in the event of the same being wound up, herein-after referred to as a Company limited by Guarantee, the Memorandum of Association shall contain the following Things; (that is to say,)

(1.) The Name of the proposed Company, with the Addition of the Word "Limited" as the last Word in such Name:

(2.) The Part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered Office of the Company is proposed to be situate:

(3.) The Objects for which the proposed Company is to be established:

(4.) A Declaration that each Member undertakes to contribute to the Assets of the Company, in the event of the same being wound up, during the Time that he is a Member, or within One Year afterwards, for Payment of the Debts and Liabilities of the Company contracted before the Time at which he ceases to be a Member, and of the Costs, Charges, and Expenses of winding up the Company, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required, not exceeding a specified Amount.

Memorandum of Association of an Unlimited Company. 20 Vict. c. 47. s. 10.

**9.** Where a Company is formed on the Principle of having no Limit placed on the Liability of its Members, herein-after referred to as an Unlimited Company, the Memorandum of Association shall contain the following Things; (that is to say,)

(1.) The Name of the proposed Company:

(2.) The Part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered Office of the Company is proposed to be situate:

(3.) The Objects for which the proposed Company is to be established.

Stamp, Signature, and Effect of Memorandum of Association. 20 Vict. c. 47. s. 7.

**10.** The Memorandum of Association shall bear the same Stamp as if it were a Deed, and shall be signed by each Subscriber in the Presence of, and be attested by, One Witness at the least, and that Attestation shall be a sufficient Attestation in Scotland as well as in England and Ireland: It shall, when registered, bind the Company and the Members thereof to the same Extent as if each Member had subscribed his Name and affixed his Seal thereto, and there were in the Memorandum contained, on the Part of himself, his Heirs, Executors, and Administrators, a Covenant to observe all the Conditions of such Memorandum, subject to the Provisions of this Act.

Power of certain Companies to alter Memorandum of Association. 20 Vict. c. 47. s. 37.

**11.** Any Company limited by Shares may so far modify the Conditions contained in its Memorandum of Association, if authorized to do so by its Regulations as originally framed, or as altered by special Resolution in manner herein-after mentioned, as to increase its Capital, by the Issue of new Shares of such Amount as it thinks expedient, or to consolidate and divide its Capital into Shares of larger Amount than its existing Shares, or to convert its paid-up Shares into Stock, but, save as aforesaid, and save as is herein-after provided in the Case of a Change of Name, no Alteration shall be made by any Company in the Conditions contained in its Memorandum of Association.

Power of Companies to change Name.

**12.** Any Company under this Act, with the Sanction of a special Resolution of the Company passed in manner herein-after mentioned,

tioned, and with the Approval of the Board of Trade testified in Writing under the Hand of One of its Secretaries or Assistant Secretaries, may change its Name, and upon such Change being made the Registrar shall enter the new Name on the Register in the Place of the former Name, and shall issue a Certificate of Incorporation altered to meet the Circumstances of the Case; but no such Alteration of Name shall affect any Rights or Obligations of the Company, or render defective any legal Proceedings instituted or to be instituted by or against the Company, and any legal Proceedings may be continued or commenced against the Company by its new Name that might have been continued or commenced against the Company by its former Name.

*Articles of Association.*

Regulations to be prescribed by Articles of Association. 20 Vict. c. 47. s. 9.

**13.** The Memorandum of Association may, in the Case of a Company limited by Shares, and shall, in the Case of a Company limited by Guarantee or unlimited, be accompanied, when registered, by Articles of Association signed by the Subscribers to the Memorandum of Association, and prescribing such Regulations for the Company as the Subscribers to the Memorandum of Association deem expedient: The Articles shall be expressed in separate Paragraphs, numbered arithmetically: They may adopt all or any of the Provisions contained in the Table marked A. in the First Schedule hereto: They shall, in the Case of a Company, whether limited by Guarantee or unlimited, that has a Capital divided into Shares, state the Amount of Capital with which the Company proposes to be registered; and in the Case of a Company, whether limited by Guarantee or unlimited, that has not a Capital divided into Shares, state the Number of Members with which the Company proposes to be registered, for the Purpose of enabling the Registrar to determine the Fees payable on Registration: In a Company limited by Guarantee or unlimited and having a Capital divided into Shares, each Subscriber shall take One Share at the least, and shall write opposite to his Name in the Memorandum of Association the Number of Shares he takes.

Application of Table A. 20 Vict. c. 47. s. 9.

**14.** In the Case of a Company limited by Shares, if the Memorandum of Association is not accompanied by Articles of Association, or in so far as the Articles do not exclude or modify the Regulations contained in the Table marked A. in the First Schedule hereto, the last-mentioned Regulations shall, so far as the same are applicable, be deemed to be the Regulations of the Company in the same Manner and to the same Extent as if they had been inserted in Articles of Association, and the Articles had been duly registered.

Stamp, Signature, and Effect of Articles of Association. 20 Vict. c. 47. s. 11.

**15.** The Articles of Association shall be printed, they shall bear the same Stamp as if they were contained in a Deed, and shall be signed by each Subscriber in the Presence of, and be attested by, One Witness at the least, and such Attestation shall be a sufficient Attestation in Scotland as well as in England and Ireland: When registered, they shall bind the Company and the Members thereof to the same Extent as if each Member had subscribed his Name and affixed his Seal thereto, and there were in such Articles contained a Covenant on the Part of himself, his Heirs, Executors, and Administrators, to conform to all the Regulations contained in such Articles, subject to the Provisions of this Act; and all Monies payable by any Member to the Company, in pursuance of the Conditions and Regulations of the Company, or any of such Conditions or Regulations, shall be deemed to be a Debt due from such Member to the Company, and in England and Ireland to be in the Nature of a Specialty Debt.

*General Provisions.*

Registration of Memorandum of Association and Articles of Association, with Fees as in Table B. 20 Vict. c. 47. s. 12.

**16.** The Memorandum of Association and the Articles of Association, if any, shall be delivered to the Registrar of Joint Stock Companies herein-after mentioned, who shall retain and register the same: There shall be paid to the Registrar by a Company having a Capital divided into Shares, in respect of the several Matters mentioned in the Table marked B. in the First Schedule hereto, the several Fees therein specified, or such smaller Fees as the Board of Trade may from Time to Time direct; and by a Company not having a Capital divided into Shares, in respect of the several Matters mentioned in the Table marked C. in the First Schedule hereto, the several Fees therein specified, or such smaller Fees as the Board of Trade may from Time to Time direct: All Fees paid to the said Registrar in pursuance of this Act shall be paid into the Receipt of Her Majesty's Exchequer, and be carried to the Account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

Effect of Registration. 20 Vict. c. 47. s. 13. 21 Vict. c. 14. s. 4.

**17.** Upon the Registration of the Memorandum of Association, and of the Articles of Association in Cases where Articles of Association are required by this Act or by the Desire of the Parties to be registered, the Registrar shall certify under his Hand that the Company is incorporated, and in the Case of a Limited Company that the Company is limited: The Subscribers of the Memorandum of Association, together with such other Persons as may from Time to Time become Members of the Company, shall thereupon be a Body Corporate by the Name contained in the Memorandum of Association, capable forthwith of exercising all the Functions of an incorporated Company, and having perpetual Succession and a Common Seal, with Power to hold Lands, but with such Liability on the

Part

Part of the Members to contribute to the Assets of the Company in the event of the same being wound up as is herein-after mentioned: A Certificate of the Incorporation of any Company given by the Registrar shall be conclusive Evidence that all the Requisitions of this Act in respect of Registration have been complied with.

Copies of Memorandum and Articles to be given to Members. 20 Vict. c. 47. s. 27. 21 Vict. c. 14. s. 10.

**18.** A Copy of the Memorandum of Association, having annexed thereto the Articles of Association, if any, shall be forwarded to every Member, at his Request, on Payment of the Sum of One Shilling or such less Sum as may be prescribed by the Company for each Copy; and if any Company makes default in forwarding a Copy of the Memorandum of Association and Articles of Association, if any, to a Member, in pursuance of this Section, the Company so making default shall for each Offence incur a Penalty not exceeding One Pound.

Prohibition against Identity of Names in Companies. 20 Vict. c. 47. s. 6.

**19.** No Company shall be registered under a Name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a Case where such subsisting Company is in the Course of being dissolved and testifies its Consent in such Manner as the Registrar requires; and if any Company, through Inadvertence or otherwise, is, without such Consent as aforesaid, registered by a Name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the Sanction of the Registrar, change its Name, and upon such Change being made the Registrar shall enter the new Name on the Register in the Place of the former Name, and shall issue a Certificate of Incorporation altered to meet the Circumstances of the Case; but no such Alteration of Name shall affect any Rights or Obligations of the Company, or render defective any legal Proceedings instituted or to be instituted by or against the Company, and any legal Proceedings may be continued or commenced against the Company by its new Name that might have been continued or commenced against the Company by its former Name.

Prohibition against certain Companies holding Land. 20 Vict. c. 47. s. 38.

**20.** No Company formed for the Purpose of promoting Art, Science, Religion, Charity, or any other like Object, not involving the Acquisition of Gain by the Company or by the individual Members thereof, shall, without the Sanction of the Board of Trade, hold more than Two Acres of Land; but the Board of Trade may, by Licence under the Hand of One of their Principal Secretaries or Assistant Secretaries, empower any such Company to hold Lands in such Quantity and subject to such Conditions as they think fit.

## PART II.

### Distribution of Capital and Liability of Members of Companies and Associations under this Act.

*Distribution of Capital.*

Nature of Interest in Company. 20 Vict. c. 47. s. 15.

**21.** The Shares or other Interest of any Member in a Company under this Act, shall be Personal Estate, capable of being transferred in manner provided by the Regulations of the Company, and shall not be of the Nature of Real Estate, and each Share shall in the Case of a Company having a Capital divided into Shares, be distinguished by its appropriate Number.

Definition of "Member." 20 Vict. c. 47. ss. 8. 19.

**22.** The Subscribers of the Memorandum of Association of any Company under this Act shall be deemed to have agreed to become Members of the Company whose Memorandum they have subscribed, and upon the Registration of the Company shall be entered as Members on the Register of Members herein-after mentioned; and every other Person who has agreed to become a Member of a Company under this Act, and whose Name is entered on the Register of Members, shall be deemed to be a Member of the Company.

Transfer by Personal Representative.

**23.** Any Transfer of the Share or other Interest of a deceased Member of a Company under this Act, made by his Personal Representative, shall, notwithstanding such Personal Representative may not himself be a Member, be of the same Validity as if he had been a Member at the Time of the Execution of the Instrument of Transfer.

Register of Members. 20 Vict. c. 47. ss. 16, 17.

**24.** Every Company under this Act shall cause to be kept in One or more Books a Register of its Members, and there shall be entered therein the following Particulars:

(1.) The Names and Addresses, and the Occupations, if any, of the Members of the Company, with the Addition, in the Case of a Company having a Capital divided into Shares, of a Statement of the Shares held by each Member, distinguishing each Share by its Number: And of the Amount paid or agreed to be considered as paid on the Shares of each Member:

(2.) The Date at which the Name of any Person was entered in the Register as a Member:

(3.) The Date at which any Person ceased to be a Member:

And any Company acting in contravention of this Section shall incur a Penalty not exceeding Five Pounds for every Day during which its Default in complying with the Provisions of this Section continues.

**25.** Every

Annual List of Members. 20 Vict. c. 47. s. 17.

**25.** Every Company under this Act, and having a Capital divided into Shares, shall make, once at least in every Year, a List of all Persons who, on the Fourteenth Day succeeding the Day on which the Ordinary General Meeting, or if there is more than One Ordinary Meeting in each Year, the First of such Ordinary General Meetings is held, are Members of the Company; and such List shall state the Names, Addresses, and Occupations of all the Members therein mentioned, and the Number of Shares held by each of them, and shall contain a Summary specifying the following Particulars:

(1.) The Amount of the Capital of the Company, and the Number of Shares into which it is divided:

(2.) The Number of Shares taken from the Commencement of the Company up to the Date of the Summary:

(3.) The Amount of Calls made on each Share:

(4.) The total Amount of Calls received:

(5.) The total Amount of Calls unpaid:

(6.) The total Amount of Shares forfeited:

The above List and Summary shall be contained in a separate Part of the Register, and shall be completed within Seven Days after such Fourteenth Day as is mentioned in this Section, and a Copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Penalty on Company not keeping a proper Register. 20 Vict. c. 47. s. 18.

**26.** If any Company under this Act, and having a Capital divided into Shares, makes default in complying with the Provisions of this Act with respect to forwarding such List of Members or Summary as is herein-before mentioned to the Registrar such Company shall incur a Penalty not exceeding Five Pounds for every Day during which such Default continues.

Company to give Notice of Consolidation or of Conversion of Capital into Stock. 21 Vict. c. 14. s. 6.

**27.** Every Company under this Act, having a Capital divided into Shares, that has consolidated and divided its Capital into Shares of larger Amount than its existing Shares, or converted any Portion of its Capital into Stock, shall give Notice to the Registrar of Joint Stock Companies of such Consolidation, Division, or Conversion, specifying the Shares so consolidated, divided, or converted.

Effect of Conversion of Shares into Stock. 21 Vict. c. 14. s. 7.

**28.** Where any Company under this Act, and having a Capital divided into Shares, has converted any Portion of its Capital into Stock, and given Notice of such Conversion to the Registrar, all the Provisions of this Act which are applicable to Shares only shall cease as to so much of the Capital as is converted into Stock; and the Register of Members hereby required to be kept by the Company, and the List of Members to be forwarded to the Registrar, shall show the Amount of Stock held by each Member in the List instead of the Amount of Shares and the Particulars relating to Shares herein-before required.

Entry of Trusts on Register. 20 Vict. c. 47. s. 19. 21 Vict. c. 49. s. 15.

**29.** No Notice of any Trust, expressed, implied, or constructive, shall be entered on the Register, or be receivable by the Registrar, in the Case of Companies under this Act and registered in England or Ireland.

Certificate of Shares or Stock. 20 Vict. c. 47. s. 21.

**30.** A Certificate, under the Common Seal of the Company, specifying any Share or Shares or Stock held by any Member of a Company, shall be primâ facie Evidence of the Title of the Member to the Share or Shares or Stock therein specified.

Inspection of Register. 20 Vict. c. 47. s. 23.

**31.** The Register of Members, commencing from the Date of the Registration of the Company, shall be kept at the registered Office of the Company herein-after mentioned: Except when closed as herein-after mentioned, it shall during Business Hours, but subject to such reasonable Restrictions as the Company in General Meeting may impose, so that not less than Two Hours in each Day be appointed for Inspection, be open to the Inspection of any Member gratis, and to the Inspection of any other Person on the Payment of One Shilling, or such less Sum as the Company may prescribe, for each Inspection; and every such Member or other Person may require a Copy of such Register, or of any Part thereof, or of such List or Summary of Members as is herein-before mentioned, on Payment of Sixpence for every Hundred Words required to be copied: If such Inspection or Copy is refused, the Company shall incur for each Refusal a Penalty not exceeding Two Pounds, and a further Penalty not exceeding Two Pounds for every Day during which such Refusal continues; and in addition to the above Penalty, as respects Companies registered in England and Ireland, any Judge sitting in Chambers, or the Vice Warden of the Stannaries, in the Case of Companies subject to his Jurisdiction, may by Order compel an immediate Inspection of the Register.

Power to close Register. 20 Vict. c. 47. s. 24.

**32.** Any Company under this Act may, upon giving Notice by Advertisement in some Newspaper circulating in the District in which the registered Office of the Company is situated, close the Register of Members for any Time or Times not exceeding in the whole Thirty Days in each Year.

Notice of Increase of Capital and of Members to be given to Registrar. 20 Vict. c. 47. s. 37.

**33.** Where a Company has a Capital divided into Shares, whether such Shares may or may not have been converted into Stock, Notice of any Increase in such Capital beyond the registered Capital, and where a Company has not a Capital divided into Shares, Notice of any Increase in the Number of Members beyond the registered Number, shall be given to the Registrar in the Case of an Increase of Capital, within Fifteen Days from the Date of the passing of the Resolution by which such Increase has been authorized, and

and in the Case of an Increase of Members within Fifteen Days from the Time at which such Increase of Members has been resolved on or has taken place, and the Registrar shall forthwith record the Amount of such Increase of Capital or Members: If such Notice is not given within the Period aforesaid the Company in default shall incur a Penalty not exceeding Five Pounds for every Day during which such Neglect to give Notice continues.

Remedy for improper Entry or Omission of Entry in Register. 20 Vict. c. 47. s. 25. 21 Vict. c. 14. s. 9.

**34.** If the Name of any Person is, without sufficient Cause, entered in or omitted from the Register of Members of any Company under this Act, or if Default is made or unnecessary Delay takes place in entering on the Register the Fact of any Person having ceased to be a Member of the Company, the Person or Member aggrieved, or any Member of the Company, or the Company itself, may, as respects Companies registered in England or Ireland, by Motion in any of Her Majesty's Superior Courts of Law or Equity, or by Application to a Judge sitting in Chambers, or to the Vice Warden of the Stannaries in the Case of Companies subject to his Jurisdiction, and as respects Companies registered in Scotland by Summary Petition to the Court of Session, or in such other Manner as the said Courts may direct, apply for an Order of the Court that the Register may be rectified; and the Court may either refuse such Application, with or without Costs, to be paid by the Applicant, or it may, if satisfied of the Justice of the Case, make an Order for the Rectification of the Register, and may direct the Company to pay all the Costs of such Motion, Application, or Petition, and any Damages the Party aggrieved may have sustained: The Court may in any Proceeding under this Section decide on any Question relating to the Title of any Person who is a Party to such Proceeding to have his Name entered in or omitted from the Register, whether such Question arises between Two or more Members or alleged Members, or between any Members or alleged Members and the Company, and generally the Court may in any such Proceeding decide any Question that it may be necessary or expedient to decide for the Rectification of the Register; provided that the Court, if a Court of Common Law, may direct an Issue to be tried, in which any Question of Law may be raised, and a Writ of Error or Appeal, in the Manner directed by "The Common Law Procedure Act, 1854," shall lie.

Notice to Registrar of Rectification of Register.

**35.** Whenever any Order has been made rectifying the Register, in the Case of a Company hereby required to send a List of its Members to the Registrar, the Court shall, by its Order, direct that due Notice of such Rectification be given to the Registrar.

Register to be Evidence. 20 Vict. s. 47. s. 26.

**36.** The Register of Members shall be primâ facie Evidence of any Matters by this Act directed or authorized to be inserted therein.

*Liability of Members.*

Liability of present and past Members of Company. 20 Vict. c. 47. s. 62.

**37.** In the event of a Company formed under this Act being wound up, every present and past Member of such Company shall be liable to contribute to the Assets of the Company to an Amount sufficient for Payment of the Debts and Liabilities of the Company, and the Costs, Charges, and Expenses of the Winding-up, and for the Payment of such Sums as may be required for the Adjustment of the Rights of the Contributories amongst themselves, with the Qualifications following; (that is to say,)

(1.) No past Member shall be liable to contribute to the Assets of the Company if he has ceased to be a Member for a Period of One Year or upwards prior to the Commencement of the Winding-up:

(2.) No past Member shall be liable to contribute in respect of any Debt or Liability of the Company contracted after the Time at which he ceased to be a Member:

(3.) No past Member shall be liable to contribute to the Assets of the Company unless it appears to the Court that the existing Members are unable to satisfy the Contributions required to be made by them in pursuance of this Act:

(4.) In the Case of a Company limited by Shares, no Contribution shall be required from any Member exceeding the Amount, if any, unpaid on the Shares in respect of which he is liable as a present or past Member:

(5.) In the Case of a Company limited by Guarantee, no Contribution shall be required from any Member exceeding the Amount of the Undertaking entered into on his Behalf by the Memorandum of Association:

(6.) Nothing in this Act contained shall invalidate any Provision contained in any Policy of Insurance or other Contract whereby the Liability of individual Members upon any such Policy or Contract is restricted, or whereby the Funds of the Company are alone made liable in respect of such Policy or Contract:

(7.) No Sum due to any Member of a Company, in his Character of a Member, by way of Dividends, Profits, or otherwise, shall be deemed to be a Debt of the Company, payable to such Member in a Case of Competition between himself and any other Creditor not being a Member of the Company; but any such Sum may be taken into account, for the Purposes of the final Adjustment of the Rights of the Contributories amongst themselves.

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## PART III.

## PART III.

### Management and Administration of Companies and Associations under this Act.

*Provisions for Protection of Creditors.*

Registered Office of Company. 20 Vict. c. 47. s. 28.

**38.** Every Company under this Act shall have a registered Office to which all Communications and Notices may be addressed: If any Company under this Act carries on Business without having such an Office, it shall incur a Penalty not exceeding Five Pounds for every Day during which Business is so carried on.

Notice of Situation of registered Office. 20 Vict. c. 47. s. 29.

**39.** Notice of the Situation of such registered Office, and of any Change therein, shall be given to the Registrar, and recorded by him: Until such Notice is given the Company shall not be deemed to have complied with the Provisions of this Act with respect to having a registered Office.

Publication of Name by a Limited Company. 20 Vict. c. 47. s. 30.

**40.** Every Limited Company under this Act, whether limited by Shares or by Guarantee, shall paint or affix, and shall keep painted or affixed, its Name on the Outside of every Office or Place in which the Business of the Company is carried on, in a conspicuous Position, in Letters easily legible, and shall have its Name engraven in legible Characters on its Seal, and shall have its Name mentioned in legible Characters in all Notices, Advertisements, and other official Publications of such Company, and in all Bills of Exchange, Promissory Notes, Endorsements, Cheques, and Orders for Money or Goods purporting to be signed by or on behalf of such Company, and in all Bills of Parcels, Invoices, Receipts, and Letters of Credit of the Company.

Penalties on Nonpublication of Name. 20 Vict. c. 47. s. 31.

**41.** If any Limited Company under this Act does not paint or affix, and keep painted or affixed, its Name in manner directed by this Act, it shall be liable to a Penalty not exceeding Five Pounds for not so painting or affixing its Name, and for every Day during which such Name is not so kept painted or affixed; and if any Officer of such Company, or any Person on its Behalf, uses any Seal purporting to be a Seal of the Company whereon its Name is not so engraven as aforesaid, or issues or authorizes the Issue of any Notice, Advertisement, or other official Publication of such Company, or signs or authorizes to be signed on behalf of such Company any Bill of Exchange, Promissory Note, Endorsement, Cheque, Order for Money or Goods, or issues or authorizes to be issued any Bill of Parcels, Invoice, Receipt, or Letter of Credit of the Company, wherein its Name is not mentioned in manner aforesaid, he shall be liable to a Penalty of Fifty Pounds, and shall further be personally liable to the Holder of any such Bill of Exchange, Promissory Note, Cheque, or Order for Money or Goods, for the Amount thereof, unless the same is duly paid by the Company.

 **42.** Every

Register of Mortgages.

**42.** Every Limited Company under this Act shall keep a Register of all Mortgages and Charges specifically affecting Property of the Company, and shall enter in such Register in respect of each Mortgage or Charge a short Description of the Property mortgaged or charged, the Amount of Charge created, and the Names of the Mortgagees or Persons entitled to such Charge: If any Property of the Company is mortgaged without such Entry as aforesaid being made, every Director or other Officer of the Company who is privy to such Mortgage shall incur a Penalty not exceeding Fifty Pounds: The Register of Mortgages required by this Section shall be open to Inspection by any Creditor or Member of the Company at all reasonable Times; and if such Inspection is refused, any Officer of the Company refusing the same shall incur a Penalty not exceeding Five Pounds, and a further Penalty not exceeding Two Pounds for every Day during which such Refusal continues; and in addition to the above Penalty, as respects Companies registered in England and Ireland, any Judge sitting in Chambers, or the Vice Warden of the Stannaries in the Case of Companies subject to his Jurisdiction, may by Order compel an immediate Inspection of the Register.

Certain Companies to publish Statement entered in Schedule. 22 Vict. c. 91. s. 4.

**43.** Every Limited Banking Company and every Insurance Company, and Deposit, Provident, or Benefit Society under this Act shall, before it commences Business, and also on the First Monday in February and the First Monday in August in every Year during which it carries on Business, make a Statement in the Form marked D. in the First Schedule hereto, or as near thereto as Circumstances will admit, and a Copy of such Statement shall be put up in a conspicuous Place in the registered Office of the Company, and in every Branch Office or Place where the Business of the Company is carried on, and if Default is made in compliance with the Provisions of this Section the Company shall be liable to a Penalty not exceeding Five Pounds for every Day during which such Default continues.

Every Member and every Creditor of any Company mentioned in this Section shall be entitled to a Copy of the above-mentioned Statement on Payment of a Sum not exceeding One Shilling.

List of Directors to be sent to Registrar.

**44.** Every Company under this Act, and not having a Capital divided into Shares, shall keep at its registered Office a Register containing the Names and Addresses and the Occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a Copy of such Register, and shall from Time to Time notify to the Registrar any Change that takes place in such Directors or Managers.

Penalty on Company not keeping Register of Directors.

**45.** If any Company under this Act, and not having a Capital divided into Shares, makes default in keeping a Register of its Directors or Managers, or in sending a Copy of such Register to the Registrar in compliance with the foregoing Rules, or in notifying

ing to the Registrar any Change that takes place in such Directors or Managers, such delinquent Company shall incur a Penalty not exceeding Five Pounds for every Day during which such Default continues.

Promissory Notes and Bills of Exchange. 20 Vict. c. 47. s. 43.

**46.** A Promissory Note or Bill of Exchange shall be deemed to have been made, accepted, or endorsed on behalf of any Company under this Act, if made, accepted, or endorsed in the Name of the Company by any Person acting under the Authority of the Company, or if made, accepted, or endorsed by or on behalf or on account of the Company, by any Person acting under the Authority of the Company.

Prohibition against carrying on Business with less than Seven Members. 20 Vict. c. 47. s. 39.

**47.** If any Company under this Act carries on Business when the Number of its Members is less than Seven for a Period of Six Months after the Number has been so reduced, every Person who is a Member of such Company during the Time that it so carries on Business after such Period of Six Months, and is cognizant of the Fact that it is so carrying on Business with fewer than Seven Members, shall be severally liable for the Payment of the whole Debts of the Company contracted during such Time, and may be sued for the same, without the Joinder in the Action or Suit of any other Member.

*Provisions for Protection of Members.*

General Meeting of Company. 20 Vict. c. 47. s. 32.

**48.** A General Meeting of every Company under this Act shall be held once at the least in every Year.

Power to alter Regulations by Special Resolution. 20 Vict. c. 47. s. 33.

**49.** Subject to the Provisions of this Act, and to the Conditions contained in the Memorandum of Association, any Company formed under this Act may, in General Meeting, from Time to Time, by passing a Special Resolution in manner herein-after mentioned, alter all or any of the Regulations of the Company contained in the Articles of Association or in the Table marked A. in the First Schedule, where such Table is applicable to the Company, or make new Regulations to the Exclusion of or in addition to all or any of the Regulations of the Company; and any Regulations so made by Special Resolution shall be deemed to be Regulations of the Company of the same Validity as if they had been originally contained in the Articles of Association, and shall be subject in like Manner to be altered or modified by any subsequent Special Resolution.

Definition of Special Resolution. 20 Vict. c. 47. s. 34.

**50.** A Resolution passed by a Company under this Act shall be deemed to be special whenever a Resolution has been passed by a Majority of not less than Three Fourths of such Members of the Company for the Time being entitled, according to the Regulations of the Company, to vote as may be present, in Person or by Proxy (in Cases where by the Regulations of the Company Proxies are allowed), at any General Meeting of which Notice specifying the Intention to propose such Resolution has been duly given, and such

Resolution has been confirmed by a Majority of such Members for the Time being entitled, according to the Regulations of the Company, to vote as may be present, in Person or by Proxy, at a subsequent General Meeting, of which Notice has been duly given, and held at an Interval of not less than Fourteen Days, nor more than One Month from the Date of the Meeting at which such Resolution was first passed: At any Meeting mentioned in this Section, unless a Poll is demanded by at least Five Members, a Declaration of the Chairman that the Resolution has been carried shall be deemed conclusive Evidence of the Fact, without Proof of the Number or Proportion of the Votes recorded in favour of or against the same: Notice of any Meeting shall, for the Purposes of this Section, be deemed to be duly given and the Meeting to be duly held, whenever such Notice is given and Meeting held in manner prescribed by the Regulations of the Company: In computing the Majority under this Section, when a Poll is demanded, Reference shall be had to the Number of Votes to which each Member is entitled by the Regulations of the Company.

Provision where no Regulations as to Meetings.

**51.** In default of any Regulations as to voting every Member shall have One Vote, and in default of any Regulations as to summoning General Meetings a Meeting shall be held to be duly summoned of which Seven Days Notice in Writing has been served on every Member in manner in which Notices are required to be served by the Table marked A. in the First Schedule hereto, and in default of any Regulations as to the Persons to summon Meetings Five Members shall be competent to summon the same, and in default of any Regulations as to who is to be Chairman of such Meeting, it shall be competent for any Person elected by the Members present to preside.

Registry of Special Resolutions. 20 Vict. c. 47. s. 35.

**52.** A Copy of any Special Resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies, and be recorded by him: If such Copy is not so forwarded within Fifteen Days from the Date of the Confirmation of the Resolution, the Company shall incur a Penalty not exceeding Two Pounds for every Day after the Expiration of such Fifteen Days during which such Copy is omitted to be forwarded, and he may receive and record a Copy of any Regulation of the Company adopted otherwise than by Special Resolution.

Copies of Special Resolutions. 20 Vict. c. 47. s. 36.

**53.** Where Articles of Association have been registered, a Copy of every Special Resolution for the Time being in force shall be annexed to or embodied in every Copy of the Articles of Association that may be issued after the passing of such Resolution: Where no Articles of Association have been registered, a Copy of any Special Resolution shall be forwarded in Print to any Member requesting the same on Payment of One Shilling, or such less Sum

as

as the Company may direct: And if any Company makes Default in complying with the Provisions of this Section, it shall incur a Penalty not exceeding One Pound for each Copy in respect of which such Default is made.

Execution of Deeds abroad. 20 Vict. c. 47. s. 42.

**54.** Any Company under this Act may, by Instrument in Writing under its Common Seal, empower any Person, either generally or in respect of any specified Matters, as its Attorney, to execute Deeds on its Behalf in any Place not situate in the United Kingdom; and every Deed signed by such Attorney, on behalf of the Company, and under his Seal, shall be binding on the Company and have the same Effect as if it were under the Common Seal of the Company.

Examination of Affairs of Company by Inspectors. 20 Vict. c. 47. s. 48. 21 Vict. c. 49. s. 14.

**55.** The Board of Trade may appoint One or more competent Inspectors to examine into the Affairs of any Company under this Act, and to report thereon, in such Manner as the Board may direct, upon the Applications following; (that is to say,)

(1.) In the Case of a Banking Company that has a Capital divided into Shares, upon the Application of Members holding not less than One Third Part of the whole Shares of the Company for the Time being issued:

(2.) In the Case of any other Company that has a Capital divided into Shares, upon the Application of Members holding not less than One Fifth Part of the whole Shares of the Company for the Time being issued:

(3.) In the Case of any Company not having a Capital divided into Shares upon the Application of Members being in Number not less than One Fifth of the whole Number of Persons for the Time being entered on the Register of the Company as Members.

Application for Inspection to be supported by Evidence.

**56.** The Application shall be supported by such Evidence as the Board of Trade may require for the Purpose of showing that the Applicants have good Reason for requiring such Investigation to be made, and that they are not actuated by malicious Motives in instituting the same; the Board of Trade may also require the Applicants to give Security for Payment of the Costs of the Inquiry before appointing any Inspector or Inspectors.

Inspection of Books. 20 Vict. c. 47. s. 49.

**57.** It shall be the Duty of all Officers and Agents of the Company to produce for the Examination of the Inspectors all Books and Documents in their Custody or Power: Any Inspector may examine upon Oath the Officers and Agents of the Company in relation to its

Business, and may administer such Oath accordingly: If any Officer or Agent refuses to produce any Book or Document hereby directed to be produced, or to answer any Question relating to the Affairs of the Company, he shall incur a Penalty not exceeding Five Pounds in respect of each Offence.

Result of Examination how dealt with. 20 Vict. c. 47. s. 50.

**58.** Upon the Conclusion of the Examination the Inspectors shall report their Opinion to the Board of Trade: Such Report shall be written or printed, as the Board of Trade directs: A Copy shall be forwarded by the Board of Trade to the registered Office of the Company, and a further Copy shall, at the Request of the Members upon whose Application the Inspection was made, be delivered to them or to any One or more of them: All Expenses of and incidental to any such Examination as aforesaid shall be defrayed by the Members upon whose Application the Inspectors were appointed.

Power of Company to appoint Inspectors. 20 Vict. c. 47. s. 51.

**59.** Any Company under this Act may by Special Resolution appoint Inspectors for the Purpose of examining into the Affairs of the Company: The Inspectors so appointed shall have the same Powers and perform the same Duties as Inspectors appointed by the Board of Trade, with this Exception, that, instead of making their Report to the Board of Trade, they shall make the same in such Manner and to such Persons as the Company in General Meeting directs; and the Officers and Agents of the Company shall incur the same Penalties, in case of any Refusal to produce any Book or Document hereby required to be produced to such Inspectors, or to answer any Question, as they would have incurred if such Inspector had been appointed by the Board of Trade.

Report of Inspectors to be Evidence. 20 Vict. c. 47. s. 52.

**60.** A Copy of the Report of any Inspectors appointed under this Act, authenticated by the Seal of the Company into whose Affairs they have made Inspection, shall be admissible in any legal Proceeding, as Evidence of the Opinion of the Inspectors in relation to any Matter contained in such Report.

*Notices.*

Service of Notices on Company. 20 Vict. c. 47. s. 53.

**61.** Any Summons, Notice, Order, or other Document required to be served upon the Company may be served by leaving the same, or sending it through the Post in a prepaid Letter addressed to the Company, at their registered Office.

Rules as to Notices by Letter. 20 Vict. c. 47. s. 54.

**62.** Any Document to be served by Post on the Company shall be posted in such Time as to admit of its being delivered in the due Course of Delivery within the Period (if any) prescribed for the Service thereof; and in proving Service of such Document it shall be sufficient to

to prove that such Document was properly directed, and that it was put as a prepaid Letter into the Post Office.

Authentication of Notices of Company. 20 Vict. c. 47. s. 55.

**63.** Any Summons, Notice, Order, or Proceeding requiring Authentication by the Company, may be signed by any Director, Secretary, or other authorized Officer of the Company, and need not be under the Common Seal of the Company, and the same may be in Writing or in Print, or partly in Writing and partly in Print.

*Legal Proceedings.*

Recovery of Penalties. 20 Vict. c. 47. s. 56.

**64.** All Offences under this Act made punishable by any Penalty may be prosecuted summarily before Two or more Justices, as to England, in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three, intituled "An Act to "facilitate the Performance of the Duties of Justices of the Peace out "of Sessions within England and Wales with respect to summary "Convictions and Orders," or any Act amending the same; and as to Scotland, before Two or more Justices or the Sheriff of the County, in manner directed by the Act passed in the Session of Parliament holden in the Seventeenth and Eighteenth Years of the Reign of Her Majesty Queen Victoria, Chapter One hundred and four, intituled "An Act to amend and consolidate the Acts relating to "Merchant Shipping," or any Act amending the same, as regards Offences in Scotland against that Act, not being Offences by that Act described as Felonies or Misdemeanors; and as to Ireland, in manner directed by the Act passed in the Session holden in the Fourteenth and Fifteenth Years of the Reign of Her Majesty Queen Victoria, Chapter Ninety-three, intituled "An Act to consolidate "and amend the Acts regulating the Proceedings of Petty Sessions "and the Duties of Justices of the Peace out of Quarter Sessions in "Ireland," or any Act amending the same.

Application of Penalties. 20 Vict. c. 47. s. 56.

**65.** The Justices or Sheriff imposing any Penalty under this Act may direct the whole or any Part thereof to be applied in or towards Payment of the Costs of the Proceedings, or in or towards the rewarding the Person upon whose Information or at whose Suit such Penalty has been recovered; and, subject to such Direction, all Penalties shall be paid into the Receipt of Her Majesty's Exchequer, in such Manner as the Treasury may direct, and shall be carried to and form Part of the Consolidated Fund of the United Kingdom.

Evidence of Proceedings at Meetings. 20 Vict. c. 47. s. 40.

**66.** Every Company under this Act shall cause Minutes of all Resolutions and Proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in Cases where there are Directors or Managers, to be duly entered in

8 Vict. c. 16. ss. 98. 99.

Books to be from Time to Time provided for the Purpose; and any such Minute as aforesaid, if purporting to be signed by the Chairman of the Meeting at which such Resolutions were passed or Proceedings had, or by the Chairman of the next succeeding Meeting, shall be received as Evidence in all legal Proceedings; and until the contrary is proved, every General Meeting of the Company or Meeting of Directors or Managers in respect of the Proceedings of which Minutes have been so made, shall be deemed to have been duly held and convened, and all Resolutions passed thereat or Proceedings had, to have been duly passed and had, and all Appointments of Directors, Managers, or Liquidators shall be deemed to be valid, and all Acts done by such Directors, Managers, or Liquidators shall be valid, notwithstanding any Defect that may afterwards be discovered in their Appointments or Qualifications.

Jurisdiction of Vice Warden of Stannaries.

**67.** In the Case of Companies under this Act, and engaged in working Mines within and subject to the Jurisdiction of the Stannaries, the Court of the Vice Warden of the Stannaries shall have and exercise the like Jurisdiction and Powers, as well on the Common Law as on the Equity Side thereof, which it now possesses by Custom, Usage, or Statute in the Case of unincorporated Companies, but only so far as such Jurisdiction or Powers are consistent with the Provisions of this Act and with the Constitution of Companies as prescribed or required by this Act; and for the Purpose of giving fuller Effect to such Jurisdiction in all Actions, Suits, or legal Proceedings instituted in the said Court, in Causes or Matters whereof the Court has Cognizance, all Process issuing out of the same, and all Orders, Rules, Demands, Notices, Warrants, and Summonses required or authorized by the Practice of the Court to be served on any registered Company, or any Member or Contributory thereof, or any Officer, Agent, Director, Manager, or Servant thereof, may be served in any Part of England without any Special Order of the Vice Warden for that Purpose, and all Decrees, Orders, and Judgments of the said Court made or pronounced in such Causes or Matters may be enforced in the same Manner in which Decrees, Orders, and Judgments of the Court may now by Law be enforced, whether within or beyond the local Limits of the Stannaries; and the Seal of the said Court, and the Signature of the Registrar thereof, shall be judicially noticed by all other Courts and Judges in England, and shall require no other Proof than the Production thereof: The Registrar of the said Court, or the Assistant Registrar, in making Sales under any Decree or Order of the Court shall be entitled to the same Privilege of selling by Auction or Competition without a Licence, and without being liable to Duty, as a Judge of the Court of Chancery is entitled to in pursuance of the Acts in that Behalf.

**68.** Where

Provision as to Costs in Actions brought by certain Limited Companies. 21 Vict. c. 14. s. 24.

**68.** Where a Limited Company is Plaintiff or Pursuer in any Action, Suit, or other legal Proceeding, any Judge having Jurisdiction in the Matter may, if it appears by any credible Testimony that there is Reason to believe that if the Defendant be successful in his Defence the Assets of the Company will be insufficient to pay his Costs, require sufficient Security to be given for such Costs, and may stay all Proceedings until such Security is given.

Declaration in Action against Members.

**69.** In any Action or Suit brought by the Company against any Member to recover any Call or other Monies due from such Member in his Character of Member, it shall not be necessary to set forth the special Matter, but it shall be sufficient to allege that the Defendant is a Member of the Company, and is indebted to the Company in respect of a Call made or other Monies due whereby an Action or Suit hath accrued to the Company.

*Alteration of Forms.*

Board of Trade may alter Forms in Schedule. 20 Vict. c. 47. s. 85. 21 Vict. c. 14. s. 22.

**70.** The Forms set forth in the Second Schedule hereto, or Forms as near thereto as Circumstances admit, shall be used in all Matters to which such Forms refer; the Board of Trade may from Time to Time make such Alterations in the Tables and Forms contained in the First Schedule hereto, so that it does not increase the Amount of Fees payable to the Registrar in the said Schedule mentioned, and in the Forms in the Second Schedule, or make such Additions to the last-mentioned Forms, as it deems requisite: Any such Table or Form, when altered, shall be published in the London Gazette, and upon such Publication being made, such Table or Form shall have the same Force as if it were included in the Schedule to this Act, but no Alteration made by the Board of Trade in the Table marked A. contained in the First Schedule shall affect any Company registered prior to the Date of such Alteration, or repeal, as respects such Company, any Portion of such Table.

*Arbitrations.*

Power for Companies to refer Matters to Arbitration.

**71.** Any Company under this Act may from Time to Time, by Writing under its Common Seal, agree to refer and may refer to Arbitration, in accordance with "The Railway Companies Arbitration Act, 1859," any existing or future Difference, Question, or other Matter whatsoever in dispute between itself and any other Company, and the Companies Parties to the Arbitration may delegate to the Person or Persons to whom the Reference is made Power to settle any Terms or to determine any Matter capable of being lawfully settled or determined by the Companies themselves, or by the Directors or other managing Body of such Companies.

Provisions of Railway Companies Arbitration Act to apply.

**72.** All the Provisions of "The Railway Companies Arbitration Act, 1859," shall be deemed to apply to Arbitrations between Companies in pursuance of this Act; and in the Construction of such Provisions, "the Companies" shall be deemed to include Companies authorized by this Act to refer Disputes to Arbitration.

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## PART IV.

### Winding up of Companies and Associations under this Act.

*Preliminary.*

Meaning of Contributory. 20 Vict. c. 47. s. 65.

**73.** The Term "Contributory" shall mean every Person liable to contribute to the Assets of a Company under this Act, in the event of the same being wound up: It shall also, in all Proceedings for determining the Persons who are to be deemed Contributories, and in all Proceedings prior to the final Determination of such Persons, include any Person alleged to be a Contributory.

Nature of Liability of Contributory. 21 Vict. c. 14. s. 13.

**74.** The Liability of any Person to contribute to the Assets of a Company under this Act in the event of the same being wound up, shall be deemed to create a Debt (in England and Ireland of the Nature of a Specialty) accruing due from such Person at the Time when his Liability commenced, but payable at the Time or respective Times when Calls are made as herein-after mentioned for enforcing such Liability; and it shall be lawful in the Case of the Bankruptcy of any Contributory to prove against his Estate the estimated Value of his Liability to future Calls, as well as Calls already made.

Contributories in case of Death. 20 Vict. c. 47. s. 65.

**75.** If any Contributory dies either before or after he has been placed on the List of Contributories herein-after mentioned, his Personal Representatives, Heirs, and Devisees shall be liable in a due Course of Administration to contribute to the Assets of the Company in discharge of the Liability of such deceased Contributory, and such Personal Representatives, Heirs, and Devisees shall be deemed to be Contributories accordingly.

Contributories in case of Bankruptcy. 12 & 13 Vict. c. 108. s. 14.

**76.** If any Contributory becomes bankrupt, either before or after he has been placed on the List of Contributories, his Assignees shall be deemed to represent such Bankrupt for all the Purposes of the Winding-up, and shall be deemed to be Contributories accordingly, and may be called upon to admit to Proof against the Estate of such Bankrupt, or otherwise to allow to be paid out of his Assets in due Course of Law, any Monies due from such Bankrupt in respect of his Liability to contribute to the Assets of the Company being wound up; and for the Purposes of this Section any Person who may have taken the Benefit of any Act for the Relief of Insolvent Debtors before the Eleventh Day

Day of October One thousand eight hundred and sixty-one shall be deemed to have become bankrupt.

Contributories in case of Marriage. 12 & 13 Vict. c. 108. s. 14.

**77.** If any Female Contributory marries, either before or after she has been placed on the List of Contributories, her Husband shall during the Continuance of the Marriage be liable to contribute to the Assets of the Company the same Sum as she would have been liable to contribute if she had not married, and he shall be deemed to be a Contributory accordingly.

*Winding up by Court.*

Circumstances under which Company may be wound up by Court. 20 Vict. c. 47. s. 67.

**78.** A Company under this Act may be wound up by the Court as herein-after defined, under the following Circumstances; (that is to say,)

(1.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up by the Court:

(2.) Whenever the Company does not commence its Business within a Year from its Incorporation, or suspends its Business for the Space of a whole Year:

(3.) Whenever the Members are reduced in Number to less than Seven:

(4.) Whenever the Company is unable to pay its Debts:

(5.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up.

Company when deemed unable to pay its Debts. 20 Vict. c. 47. s. 68.

**79.** A Company under this Act shall be deemed to be unable to pay its Debts,

(1.) Whenever a Creditor, by Assignment or otherwise, to whom the Company is indebted, at Law or in Equity, in a Sum exceeding Fifty Pounds then due, has served on the Company, by leaving the same at their registered Office, a Demand under his Hand requiring the Company to pay the Sum so due, and the Company has for the Space of Three Weeks succeeding the Service of such Demand neglected to pay such Sum, or to secure or compound for the same to the reasonable Satisfaction of the Creditor:

(2.) Whenever, in England and Ireland, Execution or other Process issued on a Judgment, Decree, or Order obtained in any Court in favour of any Creditor, at Law or in Equity, in any Proceeding instituted by such Creditor against the Company, is returned unsatisfied in whole or in part:

(3.) Whenever, in Scotland, the Induciæ of a Charge for Payment on an Extract Decree, or an Extract registered Bond, or an Extract registered Protest have expired without Payment being made:

(4.) Whenever it is proved to the Satisfaction of the Court that the Company is unable to pay its Debts.

Definition of "the Court." 20 Vict. c. 47. s. 60. 20 & 21 Vict. c. 78. s. 12.

**80.** The Expression "the Court," as used in this Part of this Act, shall mean the following Authorities; (that is to say,)

In the Case of a Company engaged in working any Mine within and subject to the Jurisdiction of the Stannaries,—the Court of the Vice Warden of the Stannaries, unless the Vice Warden certifies that in his Opinion the Company would be more advantageously wound up in the High Court of Chancery, in which Case "the Court" shall mean the High Court of Chancery:

In the Case of a Company registered in England that is not engaged in working any such Mine as aforesaid,—the High Court of Chancery:

In the Case of a Company registered in Ireland, the Court of Chancery in Ireland:

In all Cases of Companies registered in Scotland, the Court of Session in either Division thereof:

Provided that where the Court of Chancery in England or Ireland makes an Order for winding up a Company under this Act, it may, if it thinks fit, direct all subsequent Proceedings for winding up the same to be had in the Court of Bankruptcy having Jurisdiction in the Place in which the registered Office of the Company is situate; and thereupon such last-mentioned Court of Bankruptcy shall, for the Purposes of winding up the Company, be deemed to be "the Court" within the Meaning of the Act, and shall have for the Purposes of such winding-up all the Powers of the High Court of Chancery, or of the Court of Chancery in Ireland, as the Case may require.

Application for winding up to be made by Petition. 20 Vict. c. 47. s. 69.

**81.** Any Application to the Court for the winding up of a Company under this Act shall be by Petition; it may be presented by the Company, or by any One or more Creditor or Creditors, Contributory or Contributories of the Company, or by all or any of the above Parties, together or separately.

Power of Court.

**82.** Any Judge of the High Court of Chancery may do in Chambers any Act which the Court is hereby authorized to do; and the Vice Warden of the Stannaries may direct that a Petition for winding up a Company be heard by him at such Time and at such Place within the Jurisdiction of the Stannaries, or within or near to the Place where the registered Office of the Company is situated, as he may deem to be convenient to the Parties concerned, or (with the Consent of the Parties concerned) at any Place in England; and all Orders made thereupon shall have the same Force and Effect as if they had been made by the Vice Warden sitting at Truro or elsewhere within the Jurisdiction of the Court, and all Parties and Persons summoned to attend at the Hearing of any such Petition shall be compellable to give their Attendance before the Vice Warden by like Process and in like Manner as at the Hearing of any Cause or Matter at the usual Sitting of the said Court; and the Registrar of the Court may

may, subject to Exception or Appeal to the Vice-Warden as heretofore used, do and exercise such and the like Acts and Powers in the Matter of winding up as he is now used to do and exercise in a Suit on the Equity Side of the said Court.

Commencement of winding up by Court. 20 Vict. c. 47. s. 64.

**83.** A Winding-up of a Company by the Court shall be deemed to commence at the Time of the Presentation of the Petition for the Winding-up.

Court may grant Injunction. 20 Vict. c. 47. s. 84.

**84.** The Court may, at any Time after the Presentation of a Petition for winding up a Company under this Act, and before making an Order for winding up the Company, upon the Application of the Company, or of any Creditor or Contributory of the Company, restrain further Proceedings in any Action, Suit, or Proceeding against the Company, upon such Terms as the Court thinks fit; the Court may also at any Time after the Presentation of such Petition, and before the First Appointment of Liquidators, appoint provisionally an Official Liquidator of the Estate and Effects of the Company.

Course to be pursued by Court on hearing Petition. 20 Vict. c. 47. ss. 70, 71, 72.

**85.** Upon hearing the Petition the Court may dismiss the same with or without Costs, may adjourn the Hearing conditionally or unconditionally, and may make any Interim Order, or any other Order that it deems just.

Actions and Suits to be stayed after Order for winding up. 20 Vict. c. 47. s. 84.

**86.** When an Order has been made for winding up a Company under this Act no Suit, Action, or other Proceeding shall be proceeded with or commenced against the Company except with the Leave of the Court, and subject to such Terms as the Court may impose.

Copy of Order to be forwarded to Registrar. 20 Vict. c. 47. s. 73.

**87.** When an Order has been made for winding up a Company under this Act, a Copy of such Order shall forthwith be forwarded by the Company to the Registrar of Joint Stock Companies, who shall make a Minute thereof in his Books relating to the Company.

Power of Court to stay Proceedings. 20 Vict. c. 47. s. 85.

**88.** The Court may at any Time after an Order has been made for winding up a Company, upon the Application by Motion of any Creditor or Contributory of the Company, and upon Proof to the Satisfaction of the Court that all Proceedings in relation to such Winding-up ought to be stayed, make an Order staying the same, either altogether or for a limited Time, on such Terms and subject to such Conditions as it deems fit.

Effect of Order on Share

**89.** When an Order has been made for winding up a Company limited by Guarantee and having a Capital divided into Shares, any

Capital of Company limited by Guarantee.

Share Capital that may not have been called up shall be deemed to be Assets of the Company, and to be a Debt (in England and Ireland of the Nature of a Specialty) due to the Company from each Member to the Extent of any Sums that may be unpaid on any Shares held by him, and payable at such Time as may be appointed by the Court.

Court may have regard to Wishes of Creditors or Contributories.

**90.** The Court may, as to all Matters relating to the Winding-up, have regard to the Wishes of the Creditors or Contributories, as proved to it by any sufficient Evidence, and may, if it thinks it expedient, direct Meetings of the Creditors or Contributories to be summoned, held, and conducted in such Manner as the Court directs, for the Purpose of ascertaining their Wishes, and may appoint a Person to act as Chairman of any such Meeting, and to report the Result of such Meeting to the Court: In the Case of Creditors, regard is to be had to the Value of the Debts due to each Creditor, and in the Case of Contributories to the Number of Votes conferred on each Contributory by the Regulations of the Company.

*Official Liquidators.*

Appointment of Official Liquidator. 20 Vict. c. 47. s. 88.

**91.** For the Purpose of conducting the Proceedings in winding up a Company, and assisting the Court therein, there shall be appointed a Person or Persons to be called an Official Liquidator or Official Liquidators; and the Court having Jurisdiction may appoint such Person or Persons, either provisionally or otherwise, as it thinks fit, to the Office of Official Liquidator or Official Liquidators; in all Cases if more Persons than One are appointed to the Office of Official Liquidator, the Court shall declare whether any Act hereby required or authorized to be done by the Official Liquidator is to be done by all or any One or more of such Persons. The Court may also determine whether any and what Security is to be given by any Official Liquidator on his Appointment.

Resignations, Removals, filling up Vacancies, and Compensation. 20 Vict. c. 47. s. 72.

**92.** Any Official Liquidator may resign or be removed by the Court on due Cause shown: And any Vacancy in the Office of an Official Liquidator appointed by the Court shall be filled by the Court: There shall be paid to the Official Liquidator such Salary or Remuneration, by way of Per-centage or otherwise, as the Court may direct; and if more Liquidators than One are appointed such Remuneration shall be distributed amongst them in such Proportions as the Court directs.

Style and Duties of Official Liquidator. 20 Vict. c. 47. s. 89.

**93.** The Official Liquidator or Liquidators shall be described by the Style of the Official Liquidator or Official Liquidators of the particular Company in respect of which he is or they are appointed, and not by his or their individual Name or Names; he or they shall take into

into his or their Custody, or under his or their Control, all the Property, Effects, and Things in Actions to which the Company is or appears to be entitled, and shall perform such Duties in reference to the Winding-up of the Company as may be imposed by the Court.

**94.** The Official Liquidator shall have Power, with the Sanction of the Court, to do the following Things: Powers of Official Liquidator. 20 Vict. c. 47. s. 90. 22 Vict. c. 60. s. 18.

To bring or defend any Action, Suit, or Prosecution, or other legal Proceeding, Civil or Criminal, in the Name and on behalf of the Company:

To carry on the Business of the Company, so far as may be necessary for the beneficial winding up of the same:

To sell the Real and Personal and Heritable and Moveable Property, Effects, and Things in Action of the Company by Public Auction or Private Contract, with Power to transfer the whole thereof to any Person or Company, or to sell the same in Parcels:

To do all Acts and to execute, in the Name and on behalf of the Company, all Deeds, Receipts, and other Documents, and for that Purpose to use, when necessary, the Company's Seal:

To prove, rank, claim, and draw a Dividend, in the Matter of the Bankruptcy or Insolvency or Sequestration of any Contributory, for any Balance against the Estate of such Contributory, and to take and receive Dividends in respect of such Balance, in the Matter of Bankruptcy or Insolvency or Sequestration, as a separate Debt due from such Bankrupt or Insolvent, and rateably with the other separate Creditors:

To draw, accept, make, and endorse any Bill of Exchange or Promissory Note in the Name and on behalf of the Company, also to raise upon the Security of the Assets of the Company from Time to Time any requisite Sum or Sums of Money; and the drawing, accepting, making, or endorsing of every such Bill of Exchange or Promissory Note as aforesaid on behalf of the Company shall have the same Effect with respect to the Liability of such Company as if such Bill or Note had been drawn, accepted, made, or endorsed by or on behalf of such Company in the course of carrying on the Business thereof:

To take out, if necessary, in his official Name, Letters of Administration to any deceased Contributory, and to do in his official Name any other Act that may be necessary for obtaining Payment of any Monies due from a Contributory or from his Estate, and which Act cannot be conveniently done in the Name of the Company; and in all Cases where he takes out Letters of Administration, or otherwise uses his official Name for obtaining Payment of any Monies due from a Contributory, such Monies shall for the Purpose of enabling him to take out such Letters

or recover such Monies, be deemed to be due to the Official Liquidator himself:

To do and execute all such other Things as may be necessary for winding up the Affairs of the Company and distributing its Assets.

Discretion of Official Liquidator. 22 Vict. c. 60. s. 9.

**95.** The Court may provide by any Order that the Official Liquidator may exercise any of the above Powers without the Sanction or Intervention of the Court, and where an Official Liquidator is provisionally appointed may limit and restrict his Powers by the Order appointing him.

Appointment of Solicitor to Official Liquidator. 20 Vict. c. 47. s. 91.

**96.** The Official Liquidator may, with the Sanction of the Court, appoint a Solicitor or Law Agent to assist him in the Performance of his Duties.

*Ordinary Powers of Court.*

Collection and Application of Assets. 20 Vict. c. 47. s. 75.

**97.** As soon as may be after making an Order for winding up the Company, the Court shall settle a List of Contributories, with Power to rectify the Register of Members in all Cases where such Rectification is required in pursuance of this Act, and shall cause the Assets of the Company to be collected, and applied in discharge of its Liabilities.

Provision as to representative Contributories. 11 & 12 Vict. c. 45. s. 76.

**98.** In settling the List of Contributories the Court shall distinguish between Persons who are Contributories in their own Right and Persons who are Contributories as being Representatives of or being liable to the Debts of others, and no greater Liability shall be imposed on such Persons as are Contributories by reason of their being the Assignees of any bankrupt or insolvent Contributory, or the Personal Representatives, Heirs, or Devisees of any deceased Contributory, than they would have incurred if this Act had not passed; it shall not be necessary, where the Personal Representative of any deceased Contributory is placed on the List, to add the Heirs or Devisees of such Contributory, nevertheless such Heirs or Devisees may be added as and when the Court thinks fit.

Power of Court to require Delivery of Property. 11 & 12 Vict. c. 45. s. 66.

**99.** The Court may, at any Time after making an Order for winding up a Company, require any Contributory for the Time being settled on the List of Contributories, Trustee, Receiver, Banker, or Agent, or Officer of the Company to pay, deliver, convey, surrender, or transfer forthwith, or within such Time as the Court directs, to or into the Hands of the Official Liquidator, any Sum or Balance, Books, Papers, Estate, or Effects which happen to be in his Hands for the Time being, and to which the Company is primâ facie entitled.

**100.** The

Power of Court to order Payment of Debts by Contributory. 11 & 12 Vict. c. 45. s. 66.

**100.** The Court may, at any Time after making an Order for winding up the Company, make an Order on any Contributory for the Time being settled on the List of Contributories, directing Payment to be made, in manner in the said Order mentioned, of any Monies due from him or from the Estate of the Person whom he represents to the Company, exclusive of any Monies which he or the Estate of the Person whom he represents may be liable to contribute by virtue of any Call made or to be made by the Court in pursuance of this Part of this Act; and it may, in making such Order, when the Company is not limited, allow to such Contributory by way of Set-off any Monies due to him or the Estate which he represents from the Company on any independent Dealing or Contract with the Company, but not any Monies due to him as a Member of the Company in respect of any Dividend or Profit:

Provided that when all the Creditors of any Company whether limited or unlimited are paid in full, any Monies due on any Account whatever to any Contributory from the Company may be allowed to him by way of Set-off against any subsequent Call or Calls.

Power of Courts to make Calls. 20 Vict. c. 47. s. 82.

**101.** The Court may, at any Time after making an Order for winding up a Company, and either before or after it has ascertained the Sufficiency of the Assets of the Company, make Calls on and order Payment thereof by all or any of the Contributories for the Time being settled on the List of Contributories, to the Extent of their Liability, for Payment of all or any Sums it deems necessary to satisfy the Debts and Liabilities of the Company, and the Costs, Charges, and Expenses of winding it up, and for the Adjustment of the Rights of the Contributories amongst themselves, and it may, in making a Call, take into consideration the Probability that some of the Contributories upon whom the same is made may partly or wholly fail to pay their respective Portions of the same.

Power of Court to order Payment into Bank.

**102.** The Court may order any Contributory, Purchaser, or other Person from whom Money is due to the Company to pay the same into the Bank of England or any Branch thereof to the Account of the Official Liquidator instead of to the Official Liquidator, and such Order may be enforced in the same Manner as if it had directed Payment to the Official Liquidator.

Regulation of Account with Court. 12 & 13 Vict. c. 106. s. 39.

**103.** All Monies, Bills, Notes, and other Securities paid and delivered into the Bank of England or any Branch thereof in the event of a Company being wound up by the Court, shall be subject to such Order and Regulation for the keeping of the Account of such Monies and other Effects, and for the Payment and Delivery

in, or Investment and Payment and Delivery out of the same as the Court may direct.

Provision in case of representative Contributory not paying Monies ordered.

**104.** If any Person made a Contributory as Personal Representative of a deceased Contributory makes default in paying any Sum ordered to be paid by him, Proceedings may be taken for administering the Personal and Real Estates of such deceased Contributory, or either of such Estates, and of compelling Payment thereout of the Monies due.

Order conclusive Evidence. 11 & 12 Vict. c. 45. s. 89.

**105.** Any Order made by the Court in pursuance of this Act upon any Contributory shall, subject to the Provisions herein contained for appealing against such Order, be conclusive Evidence that the Monies, if any, thereby appearing to be due or ordered to be paid are due, and all other pertinent Matters stated in such Order are to be taken to be truly stated as against all Persons, and in all Proceedings whatsoever, with the Exception of Proceedings taken against the Real Estate of any deceased Contributory, in which Case such Order shall only be primâ facie Evidence for the Purpose of charging his Real Estate, unless his Heirs or Devisees were on the List of Contributories at the Time of the Order being made.

Court may exclude Creditors not proving within certain Time. 20 Vict. c. 47. s. 84.

**106.** The Court may fix a certain Day or certain Days on or within which Creditors of the Company are to prove their Debts or Claims, or to be excluded from the Benefit of any Distribution made before such Debts are proved.

Proceedings in the Court of the Vice Warden of the Stannaries on Proof of Debts.

**107.** If in the course of proving the Debts and Claims of Creditors in the Court of the Vice Warden of the Stannaries any Debt or Claim is disputed by the Official Liquidator or by any Creditor or Contributory, or appears to the Court to be open to Question, the Court shall have Power, subject to Appeal as herein-after provided, to adjudicate upon it, and for that Purpose the said Court shall have and exercise all needful Powers of Inquiry touching the same by Affidavit or by oral Examination of Witnesses or of Parties, whether voluntarily offering themselves for Examination or summoned to attend by compulsory Process of the Court, or to produce Documents before the Court; and the Court shall also have Power, incidentally, to decide on the Validity and Extent of any Lien or Charge claimed by any Creditor on any Property of the Company in respect of such Debt, and to make Declarations of Right, binding on all Persons interested; and for the more satisfactory Determination of any Question of Fact, or mixed Question of Law and Fact arising on such Inquiry, the Vice Warden shall have Power, if he thinks fit, to direct

direct and settle any Action or Issue to be tried either on the Common Law Side of his Court, or by a Common or Special Jury, before the Justices of Assize in and for the Counties of Cornwall or Devon, or at any Sitting of One of the Superior Courts in London or Middlesex, which Action or Issue shall accordingly be tried in due Course of Law, and without other or further Consent of Parties; and the Finding of the Jury in such Action or Issue shall be conclusive of the Facts found, unless the Judge who tried it makes known to the Vice Warden that he was not satisfied with the finding, or unless it appears to the Vice Warden that, in consequence of Miscarriage, Accident, or the subsequent Discovery of fresh material Evidence, such Finding ought not to be conclusive.

Court to adjust Rights of Contributories. 20 Vict. c. 47. s. 86.

**108.** The Court shall adjust the Rights of the Contributories amongst themselves, and distribute any Surplus that may remain amongst the Parties entitled thereto.

Court to order Costs. 20 Vict. c. 47. s. 87.

**109.** The Court may, in the event of the Assets being insufficient to satisfy the Liabilities, make an Order as to the Payment out of the Estate of the Company of the Costs, Charges, and Expenses incurred in winding up any Company in such Order of Priority as the Court thinks just.

Dissolution of Company. 20 Vict. c. 47. s. 93.

**110.** When the Affairs of the Company have been completely wound up, the Court shall make an Order that the Company be dissolved from the Date of such Order, and the Company shall be dissolved accordingly.

Registrar to make Minute of Dissolution of Company. 20 Vict. c. 47. s. 94.

**111.** Any Order so made shall be reported by the Official Liquidator to the Registrar, who shall make a Minute accordingly in his Books of the Dissolution of such Company.

Penalty on not reporting Dissolution of Company. 21 Vict. c. 14. s. 20.

**112.** If the Official Liquidator makes default in reporting to the Registrar, in the Case of a Company being wound up by the Court, the Order that the Company be dissolved, he shall be liable to a Penalty not exceeding Five Pounds for every Day during which he is so in default.

Petition to be Lis pendens. 11 & 12 Vict. c. 45. s. 125.

**113.** Any Petition for winding up a Company by the Court under this Act shall constitute a Lis pendens within the Terms of the Act passed in the Session holden in the Second and Third Years of the Reign of Her present Majesty, Chapter Eleven, and intituled "An Act for the better Protection of Purchasers against Judgments, "Crown Debts, Lis pendens, and Fiats in Bankruptcy," provided the

same is duly registered in manner required by such Act concerning Suits in Equity.

*Extraordinary Powers of Court.*

Power of Court to summon Persons before it suspected of having Property of Company. 20 Vict. c. 47. s. 77. 11 & 12 Vict. c. 45. s. 63.

**114.** The Court may, after it has made an Order for winding up the Company, summon before it any Officer of the Company or Person known or suspected to have in his Possession any of the Estate or Effects of the Company, or supposed to be indebted to the Company, or any Person whom the Court may deem capable of giving Information concerning the Trade, Dealings, Estate, or Effects of the Company; and the Court may require any such Officer or Person to produce any Books, Papers, Deeds, Writings, or other Documents in his Custody or Power relating to the Company; and if any Person so summoned, after being tendered a reasonable Sum for his Expenses, refuses to come before the Court at the Time appointed, having no lawful Impediment (made known to the Court at the Time of its sitting, and allowed by it), the Court may cause such Person to be apprehended, and brought before the Court for Examination; nevertheless, in Cases where any Person claims any Lien on Papers, Deeds, or Writings or Documents produced by him, such Production shall be without Prejudice to such Lien, and the Court shall have Jurisdiction in the Winding-up to determine all Questions relating to such Lien.

Special Provisions as to Court of Vice Warden of the Stannaries.

**115.** If, after an Order for Winding-up in the Court of the Vice Warden of the Stannaries, it appears that any Person claims Property in, or any Lien, legal or equitable, upon any of the Machinery, Materials, Ores, or Effects on the Mine or on Premises occupied by the Company in connexion with the Mine, or to which the Company was, at the Time of the Order, primâ facie entitled, it shall be lawful for the Vice Warden or the Registrar to adjudicate upon such Claim on Interpleader in the Manner provided by Section Eleven of the Act passed in the Eighteenth Year of the Reign of Her present Majesty, Chapter Thirty-two; and any Action or Issue directed upon such Interpleader may, if the Vice Warden think fit, be tried in his Court or at the Assizes or the Sittings in London or Middlesex, before a Judge of One of the Superior Courts, in the Manner and on the Terms and Conditions herein-before provided in the Case of disputed Debts and Claims of Creditors.

Examination of Parties by Court. 20 Vict. c. 47. s. 78.

**116.** The Court may examine upon Oath, either by Word of Mouth or upon written Interrogatories, any Person appearing or brought before them in manner aforesaid, concerning the Affairs, Dealings, Estate, or Effects of the Company, and may reduce into Writing

Writing the Answers of every such Person, and require him to subscribe the same.

Power to arrest Contributory about to abscond, or to remove or conceal any of his Property. 21 Vict. c. 14. s. 11.

**117.** The Court may, at any Time before or after it has made an Order for winding up a Company, upon Proof being given that there is probable Cause for believing that any Contributory to such Company is about to quit the United Kingdom, or otherwise abscond, or to remove or conceal any of his Goods or Chattels, for the Purpose of evading Payment of Calls, or for avoiding Examination in respect of the Affairs of the Company, cause such Contributory to be arrested, and his Books, Papers, Monies, Securities for Monies, Goods, and Chattels to be seized, and him and them to be safely kept until such Time as the Court may order.

Powers of Court cumulative.

**118.** Any Powers by this Act conferred on the Court shall be deemed to be in addition to and not in restriction of any other Powers subsisting, either at Law or in Equity, of instituting Proceedings against any Contributory, or the Estate of any Contributory, or against any Debtor of the Company for the Recovery of any Call or other Sums due from such Contributory or Debtor, or his Estate, and such Proceedings may be instituted accordingly.

*Enforcement of and Appeal from Orders.*

Power to enforce Orders. 20 Vict. c. 47. s. 60.

**119.** All Orders made by the Court of Chancery in England or Ireland under this Act may be enforced in the same Manner in which Orders of such Court of Chancery made in any Suit pending therein may be enforced, and for the Purposes of this Part of this Act the Court of the Vice Warden of the Stannaries shall, in addition to its ordinary Powers, have the same Power of enforcing any Orders made by it as the Court of Chancery in England has in relation to Matters within the Jurisdiction of such Courts respectively, and for the last-mentioned Purposes the Jurisdiction of the Vice Warden of the Stannaries shall be deemed to be co-extensive in local Limits with the Jurisdiction of the Court of Chancery in England.

Power to order Contributories in Scotland to pay Calls. 22 Vict. c. 60. s. 5.

**120.** Where an Order, Interlocutor, or Decree has been made in Scotland for winding-up a Company by the Court, it shall be competent to the Court in Scotland during Session, and to the Lord Ordinary on the Bills during Vacation, on Production by the Liquidators of a List certified by them of the Names of the Contributories liable in Payment of any Calls which they may wish to enforce, and of the Amount due by each Contributory respectively, and of the Date when the same became due, to pronounce forthwith a Decree against such Contributories for Payment of the Sums so certified to be due by each of them respectively, with Interest from the said

Date till Payment, at the Rate of Five Pounds per Centum per Annum, in the same Way and to the same Effect as if they had severally consented to Registration for Execution, on a Charge of Six Days, of a legal Obligation to pay such Calls and Interest; and such Decree may be extracted immediately, and no Suspension thereof shall be competent, except on Caution or Consignation, unless with special Leave of the Court or Lord Ordinary.

Order made in England to be enforced in Ireland and Scotland. 22 Vict. c. 60. s. 12.

**121.** Any Order made by the Court in England for or in the Course of the Winding-up of a Company under this Act shall be enforced in Scotland and Ireland in the Courts that would respectively have had Jurisdiction in respect of such Company if the registered Office of the Company had been situate in Scotland or Ireland, and in the same Manner in all respects as if such Order had been made by the Courts that are hereby required to enforce the same; and in like Manner Orders, Interlocutors, and Decrees made by the Court in Scotland for or in the Course of the Winding-up of a Company shall be enforced in England and Ireland, and Orders made by the Court in Ireland for or in the Course of winding up a Company shall be enforced in England and Scotland by the Courts which would respectively have had Jurisdiction in the Matter of such Company if the registered Office of the Company were situate in the Division of the United Kingdom where the Order is required to be enforced, and in the same Manner in all respects as if such Order had been made by the Court required to enforce the same in the Case of a Company within its own Jurisdiction.

Mode of dealing with Orders to be enforced by other Courts. 22 Vict. c. 60. s. 13.

**122.** Where any Order, Interlocutor, or Decree made by one Court is required to be enforced by another Court, as herein-before provided, an Office Copy of the Order, Interlocutor, or Decree so made shall be produced to the proper Officer of the Court required to enforce the same, and the Production of such Office Copy shall be sufficient Evidence of such Order, Interlocutor, or Decree having been made, and thereupon such last-mentioned Court shall take such Steps in the Matter as may be requisite for enforcing such Order, Interlocutor, or Decree, in the same Manner as if it were the Order, Interlocutor, or Decree of the Court enforcing the same.

Appeals from Orders. 11 & 12 Vict. c. 45. ss. 101, 102. 12 & 13 Vict. c. 108. s. 33.

**123.** Rehearings of and Appeals from any Order or Decision made or given in the Matter of the Winding-up of a Company by any Court having Jurisdiction under this Act, may be had in the same Manner and subject to the same Conditions in and subject to which Appeals may be had from any Order or Decision of the same Court in Cases within its ordinary Jurisdiction; subject to this Restriction, that no such Rehearing or Appeal shall be heard unless Notice of the same is given within Three Weeks after any Order complained of has

has been made, in manner in which Notices of Appeal are ordinarily given, according to the Practice of the Court appealed from, unless such Time is extended by the Court of Appeal: Provided that it shall be lawful for the Lord Warden of the Stannaries, by a Special or General Order, to remit at once any Appeal allowed and regularly lodged with him against any Order or Decision of the Vice Warden made in the Matter of a Winding-up to the Court of Appeal in Chancery, which Court shall thereupon hear and determine such Appeal, and have Power to require all such Certificates of the Vice Warden, Records of Proceedings below, Documents, and Papers as the Lord Warden would or might have required upon the Hearing of such Appeal, and to exercise all other the Jurisdiction and Powers of the Lord Warden specified in the Act of Parliament passed in the Eighteenth Year of the Reign of Her present Majesty, Chapter Thirty-two, and any Order so made by the Court of Appeal in Chancery shall be final, without any further Appeal.

Judicial Notice to be taken of Signature of Officers. 11 & 12 Vict. c. 45. s. 111.

**124.** In all Proceedings under this Part of this Act, all Courts, Judges, and Persons judicially acting, and all other Officers, Judicial or Ministerial, of any Court, or employed in enforcing the Process of any Court, shall take judicial Notice of the Signature of any Officer of the Courts of Chancery or Bankruptcy in England or in Ireland, or of the Court of Session in Scotland, or of the Registrar of the Court of the Vice Warden of the Stannaries, and also of the official Seal or Stamp of the several Offices of the Courts of Chancery or Bankruptcy in England or Ireland, or of the Court of Session in Scotland, or of the Court of the Vice Warden of the Stannaries, when such Seal or Stamp is appended to or impressed on any Document made, issued, or signed under the Provisions of this Part of the Act, or any official Copy thereof.

Special Commissioners for receiving Evidence. 20 Vict. c. 47. s. 101.

**125.** The Commissioners of the Court of Bankruptcy and the Judges of the County Courts in England who sit at Places more than Twenty Miles from the General Post Office, and the Commissioners of Bankrupt and the Assistant Barristers and Recorders in Ireland, and the Sheriffs of Counties in Scotland, shall be Commissioners for the Purpose of taking Evidence under this Act in Cases where any Company is wound up in any Part of the United Kingdom, and it shall be lawful for the Court to refer the whole or any Part of the Examination of any Witnesses under this Act to any Person hereby appointed Commissioner, although such Commissioner is out of the Jurisdiction of the Court that made the Order or Decree for winding up the Company; and every such Commissioner shall, in addition to any Power of summoning and examining Witnesses, and requiring the Production or Delivery of Documents, and certifying or punishing

Defaults by Witnesses, which he might lawfully exercise as a Commissioner of the Court of Bankruptcy, Judge of a County Court, Commissioner of Bankrupt, Assistant Barrister, or Recorder, or as a Sheriff of a County, have in the Matter so referred to him all the same Powers of summoning and examining Witnesses, and requiring the Production or Delivery of Documents, and punishing Defaults by Witnesses, and allowing Costs and Charges and Expenses to Witnesses, as the Court which made the Order for winding up the Company has; and the Examination so taken shall be returned or reported to such last-mentioned Court in such Manner as it directs.

Court may order the Examination of Persons in Scotland. 12 & 13 Vict. c. 108. s. 21.

**126.** The Court may direct the Examination in Scotland of any Person for the Time being in Scotland, whether a Contributory of the Company or not, in regard to the Estate, Dealings, or Affairs of any Company in the course of being wound up, or in regard to the Estate, Dealings, or Affairs of any Person being a Contributory of the Company, so far as the Company may be interested therein by reason of his being such Contributory, and the Order or Commission to take such Examination shall be directed to the Sheriff of the County in which the Person to be examined is residing or happens to be for the Time, and the Sheriff shall summon such Person to appear before him at a Time and Place to be specified in the Summons, for Examination upon Oath as a Witness or as a Haver, and to produce any Books, Papers, Deeds, or Documents called for which may be in his Possession or Power, and the Sheriff may take such Examination either orally or upon written Interrogatories, and shall report the same in Writing in the usual Form to the Court, and shall transmit with such Report the Books, Papers, Deeds, or Documents produced, if the Originals thereof are required and specified by the Order, or otherwise, such Copies thereof or Extracts therefrom, authenticated by the Sheriff, as may be necessary; and in case any Person so summoned fails to appear at the Time and Place specified, or appearing refuses to be examined or to make the Production required, the Sheriff shall proceed against such Person as a Witness or Haver duly cited, and failing to appear or refusing to give Evidence or make Production may be proceeded against by the Law of Scotland; and the Sheriff shall be entitled to such and the like Fees, and the Witness shall be entitled to such and the like Allowances, as Sheriffs when acting as Commissioners under Appointment from the Court of Session and as Witnesses and Havers are entitled to in the like Cases according to the Law and Practice of Scotland: If any Objection is stated to the Sheriff by the Witness, either on the Ground of his Incompetency as a Witness, or as to the Production required to be made, or on any other Ground whatever, the Sheriff may, if he thinks fit, report such Objection to the Court, and suspend the Examination of

of such Witness until such Objection has been disposed of by the Court.

Affidavits, &c. may be sworn in Ireland, Scotland, or the Colonies before any competent Court or Person. 12 & 13 Vict. c. 108. s. 24.

**127.** Any Affidavit, Affirmation, or Declaration required to be sworn or made, under the Provisions or for the Purposes of this Part of this Act, may be lawfully sworn or made in Great Britain or Ireland, or in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Court, Judge, or Person lawfully authorized to take and receive Affidavits, Affirmations, or Declarations, or before any of Her Majesty's Consuls or Vice-Consuls, in any Foreign Parts out of Her Majesty's Dominions, and all Courts, Judges, Justices, Commissioners, and Persons acting judicially shall take judicial Notice of the Seal or Stamp or Signature (as the Case may be) of any such Court, Judge, Person, Consul, or Vice-Consul attached, appended, or subscribed to any such Affidavit, Affirmation, or Declaration, or to any other Document to be used for the Purposes of this Part of this Act.

*Voluntary Winding-up of Company.*

Circumstances under which Company may be wound up voluntarily. 20 Vict. c. 47. s. 102.

**128.** A Company under this Act may be wound up voluntarily,

(1.) Whenever the Period, if any, fixed for the Duration of the Company by the Articles of Association expires, or whenever the Event, if any, occurs, upon the Occurrence of which it is provided by the Articles of Association that the Company is to be dissolved, and the Company in General Meeting has passed a Resolution requiring the Company to be wound up voluntarily:

(2.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up voluntarily:

(3.) Whenever the Company has passed an Extraordinary Resolution to the Effect that it has been proved to their Satisfaction that the Company cannot by reason of its Liabilities continue its Business, and that it is advisable to wind up the same:

For the Purposes of this Act any Resolution shall be deemed to be extraordinary which is passed in such Manner as would, if it had been confirmed by a subsequent Meeting, have constituted a Special Resolution, as herein-before defined.

Commencement of voluntary Winding-up. 20 Vict. c. 47. s. 64.

**129.** A voluntary Winding-up shall be deemed to commence at the Time of the passing of the Resolution authorizing such Winding-up.

Effect of voluntary Winding-up

**130.** Whenever a Company is wound up voluntarily the Company shall, from the Date of the Commencement of such Winding-up,

on Status of Company. 20 Vict. c. 47. s. 104.

up, cease to carry on its Business, except in so far as may be required for the beneficial Winding-up thereof, and all Transfers of Shares except Transfers made to or with the Sanction of the Liquidators, or Alteration in the Status of the Members of the Company taking place after the Commencement of such Winding-up shall be void, but its Corporate State and all its Corporate Powers shall, notwithstanding it is otherwise provided by its Regulations, continue until the Affairs of the Company are wound up.

Notice of Resolution to wind up voluntarily. 20 Vict. c. 47. s. 103.

**131.** Notice of any Special Resolution or Extraordinary Resolution passed for winding up a Company voluntarily shall be given by Advertisement as respects Companies registered in England in the London Gazette, as respects Companies registered in Scotland in the Edinburgh Gazette, and as respects Companies registered in Ireland in the Dublin Gazette.

Consequences of voluntary Winding-up. 20 Vict. c. 47. s. 104.

**132.** The following Consequences shall ensue upon the voluntary Winding-up of a Company:

(1.) The Property of the Company shall be applied in satisfaction of its Liabilities, pari passu, and, subject thereto, shall, unless it be otherwise provided by the Regulations of the Company, be distributed amongst the Members according to their Rights and Interests in the Company:

(2.) Liquidators shall be appointed for the Purpose of winding up the Affairs of the Company and distributing the Property:

(3.) The Company in General Meeting shall appoint such Persons or Person as it thinks fit to be Liquidators or a Liquidator, and may fix the Remuneration to be paid to them or him:

(4.) If One Person only is appointed, all the Provisions herein contained in reference to several Liquidators shall apply to him:

(5.) Upon the Appointment of Liquidators all the Power of the Directors shall cease, except in so far as the Company in General Meeting or the Liquidators may sanction the Continuance of such Powers:

(6.) When several Liquidators are appointed, every Power hereby given may be exercised by such One or more of them, as may be determined at the Time of their Appointment, or in default of such Determination by any Number not less than Two:

(7.) The Liquidators may, without the Sanction of the Court, exercise all Powers by this Act given to the Official Liquidator:

(8.) The Liquidators may exercise the Powers herein-before given to the Court of settling the List of Contributories of the Company,

Company, and any List so settled shall be primâ facie Evidence of the Liability of the Persons named therein to be Contributories:

(9.) The Liquidators may at any Time after the passing of the Resolution for winding up the Company, and before they have ascertained the Sufficiency of the Assets of the Company, call on all or any of the Contributories for the Time being settled on the List of Contributories to the Extent of their Liability to pay all or any Sums they deem necessary to satisfy the Debts, and Liabilities of the Company and the Costs, Charges, and Expenses of winding it up, and for the Adjustment of the Rights of the Contributories, amongst themselves, and the Liquidators may in making a Call take into consideration the Probability that some of the Contributories upon whom the same is made may partly or wholly fail to pay their respective Portions of the same:

(10.) The Liquidators shall pay the Debts of the Company, and adjust the Rights of the Contributories amongst themselves.

Effect of Winding-up on Share Capital of Company limited by Guarantee.

**133.** Where a Company limited by Guarantee, and having a Capital divided into Shares, is being wound up voluntarily, any Share Capital that may not have been called up shall be deemed to be Assets of the Company, and to be a Specialty Debt due from each Member to the Company to the Extent of any Sums that may be unpaid on any Shares held by him, and payable at such Time as may be appointed by the Liquidators.

Power of Company to delegate Authority to appoint Liquidators.

**134.** A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an Extraordinary Resolution, delegate to its Creditors, or to any Committee of its Creditors, the Power of appointing Liquidators or any of them, and supplying any Vacancies in the Appointment of Liquidators, or may by a like Resolution enter into any Arrangement with respect to the Powers to be exercised by the Liquidators, and the Manner in which they are to be exercised; and any Act done by the Creditors, in pursuance of such delegated Power, shall have the same Effect as if it had been done by the Company.

Arrangement when binding on Creditors.

**135.** Any Arrangement entered into between a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, and its Creditors, shall be binding on the Company if sanctioned by an Extraordinary Resolution, and on the Creditors if acceded to by Three Fourths in Number and Value of the Creditors, subject to such Right of Appeal as is herein-after mentioned.

Power of Creditor or Contributory to appeal.

**136.** Any Creditor or Contributory of a Company that has in manner aforesaid entered into any Arrangement with its Creditors may, within Three Weeks from the Date of the Completion of such Arrangement, appeal to the Court against such Arrangement, and the Court may thereupon, as it thinks just, amend, vary, or confirm the same.

Power for Liquidators or Contributories in voluntary Winding-up to apply to Court. 22 Vict. c. 60. s. 14.

**137.** Where a Company is being wound up voluntarily the Liquidators or any Contributory of the Company may apply to the Court in England, Ireland, or Scotland, or to the Lord Ordinary on the Bills in Scotland in Time of Vacation, to determine any Question arising in the Matter of such Winding-up, or to exercise, as respects the enforcing of Calls, or in respect of any other Matter, all or any of the Powers which the Court might exercise if the Company were being wound up by the Court; and the Court or Lord Ordinary in the Case aforesaid, if satisfied that the Determination of such Question, or the required Exercise of Power, will be just and beneficial, may accede, wholly or partially, to such Application, on such Terms and subject to such Conditions as the Court thinks fit, or it may make such other Order, Interlocutor, or Decree on such Application as the Court thinks just.

Power of Liquidators to call General Meeting. 21 Vict. c. 14. s. 18.

**138.** Where a Company is being wound up voluntarily the Liquidators may, from Time to Time, during the Continuance of such Winding-up, summon General Meetings of the Company for the Purpose of obtaining the Sanction of the Company by Special Resolution or Extraordinary Resolution, or for any other Purposes they think fit; and in the event of the Winding-up continuing for more than One Year, the Liquidators shall summon a General Meeting of the Company at the End of the First Year, and of each succeeding Year from the Commencement of the Winding-up, or as soon thereafter as may be convenient, and shall lay before such Meeting an Account showing their Acts and Dealings, and the Manner in which the Winding-up has been conducted during the preceding Year.

Power to fill up Vacancy in Liquidators. 22 Vict. c. 60. s. 15.

**139.** If any Vacancy occurs in the Office of Liquidators appointed by the Company, by Death, Resignation, or otherwise, the Company in General Meeting may, subject to any Arrangement they may have entered into with their Creditors, fill up such Vacancy, and a General Meeting for the Purpose of filling up such Vacancy may be convened by the continuing Liquidators, if any, or by any Contributory of the Company, and shall be deemed to have been duly held if held in manner in which a Meeting for passing an Extraordinary Resolution is hereby required to be held, or in such other

Manner

Manner as may, on Application by the continuing Liquidator, if any, or by any Contributory of the Company, be determined by the Court.

Power of Court to appoint Liquidators.

**140.** If from any Cause whatever there is no Liquidator acting in the Case of a voluntary Winding-up, the Court may, on the Application of a Contributory, appoint a Liquidator or Liquidators: The Court may also, on due Cause shown, remove any Liquidator, and appoint another Liquidator to act in the Matter of a voluntary Winding-up.

Liquidators on Conclusion of Winding-up to make up an Account. 20 Vict. c. 47. s. 104.

**141.** As soon as the Affairs of the Company are fully wound up, the Liquidators shall make up an Account showing the Manner in which such Winding-up has been conducted, and the Property of the Company disposed of; and thereupon they shall call a General Meeting of the Company for the Purpose of having the Account laid before them and hearing any Explanation that may be given by the Liquidators: The Meeting shall be called by Advertisement, specifying the Time, Place, and Object of such Meeting; and such Advertisement shall be published One Month at least previously to the Meeting, as respects Companies registered in England in the London Gazette, and as respects Companies registered in Scotland in the Edinburgh Gazette, and as respects Companies registered in Ireland in the Dublin Gazette.

Liquidators to report Meeting to Registrar. 20 Vict. c. 47. s. 104.

**142.** The Liquidators shall make a Return to the Registrar of such Meeting having been held, and of the Date at which the same was held, and on the Expiration of Three Months from the Date of the Registration of such Return the Company shall be deemed to be dissolved: If the Liquidators make default in making such Return to the Registrar they shall incur a Penalty not exceeding Five Pounds for every Day during which such Default continues.

Costs of voluntary Liquidation. 20 Vict. c. 47. s. 104.

**143.** All Costs, Charges, and Expenses properly incurred in the voluntary Winding-up of a Company, including the Remuneration of the Liquidators, shall be payable out of the Assets of the Company in priority to all other Claims.

Saving of Rights of Creditors. 20 Vict. c. 47. s. 105.

**144.** The voluntary Winding-up of a Company shall not be a Bar to the Right of any Creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the Rights of such Creditor will be prejudiced by a voluntary Winding-up.

Power of Court to adopt Pro-

**145.** Where a Company is in course of being wound up voluntarily, and Proceedings are taken for the Purpose of having the same

ceedings of voluntary Winding-up. 21 Vict. c. 14. s. 19.

wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an Order directing the Company to be wound up by the Court, provide in such Order or in any other Order for the Adoption of all or any of the Proceedings taken in the course of the voluntary Winding-up.

*Winding up subject to the Supervision of the Court.*

Power of Court, on Application, to direct Winding-up, subject to Supervision. 21 Vict. c. 14. s. 19.

**146.** When a Resolution has been passed by a Company to wind up voluntarily, the Court may make an Order directing that the voluntary Winding-up should continue, but subject to such Supervision of the Court, and with such Liberty for Creditors, Contributories, or others, to apply to the Court, and generally upon such Terms and subject to such Conditions as the Court thinks just.

Petition for winding up, subject to Supervision. 22 Vict. c. 60. s. 2.

**147.** A Petition, praying wholly or in part that a voluntary Winding-up should continue, but subject to the Supervision of the Court, and which Winding-up is herein-after referred to as a Winding-up subject to the Supervision of the Court, shall, for the Purpose of giving Jurisdiction to the Court over Suits and Actions, be deemed to be a Petition for winding up the Company by the Court.

Court may have regard to Wishes of Creditors.

**148.** The Court may, in determining whether a Company is to be wound up altogether by the Court or subject to the Supervision of the Court, in the Appointment of Liquidator or Liquidators, and in all other Matters relating to the winding up subject to Supervision, have regard to the Wishes of the Creditors or Contributories as proved to it by any sufficient Evidence, and may direct Meetings of the Creditors or Contributories to be summoned, held, and regulated in such Manner as the Court directs for the Purpose of ascertaining their Wishes, and may appoint a Person to act as Chairman of any such Meeting, and to report the Result of such Meeting to the Court: In the Case of Creditors, regard shall be had to the Value of the Debts due to each Creditor, and in the Case of Contributories to the Number of Votes conferred on each Contributory by the Regulations of the Company.

Power to Court to appoint additional Liquidators in Winding-up subject to Supervision.

**149.** Where any Order is made by the Court for a Winding-up subject to the Supervision of the Court, the Court may, in such Order or in any subsequent Order, appoint any additional Liquidator or Liquidators; and any Liquidators so appointed by the Court shall have the same Powers, be subject to the same Obligations, and in all respects stand in the same Position as if they had been appointed by the Company: The Court may from Time to Time remove any

any Liquidators so appointed by the Court, and fill up any Vacancy occasioned by such Removal, or by Death or Resignation. 22 Vict. c. 60. s. 15.

**150.** Where an Order is made for a Winding-up subject to the Supervision of the Court, the Liquidators appointed to conduct such Winding-up may, subject to any Restrictions imposed by the Court, exercise all their Powers, without the Sanction or Intervention of the Court, in the same Manner as if the Company were being wound up altogether voluntarily; but, save as aforesaid, any Order made by the Court for a Winding-up, subject to the Supervision of the Court, shall for all Purposes including the staying of Actions, Suits, and other Proceedings be deemed to be an Order of the Court for winding up the Company by the Court, and shall confer full Authority on the Court to make Calls, or to enforce Calls made by the Liquidators, and to exercise all other Powers which it might have exercised if an Order had been made for winding up the Company altogether by the Court, and in the Construction of the Provisions whereby the Court is empowered to direct any Act or Thing to be done to or in favour of the Official Liquidators, the Expression Official Liquidators shall be deemed to mean the Liquidators conducting the Winding-up, subject to the Supervision of the Court. Effect of Order of Court for winding-up subject to Supervision. 22 Vict. c. 60. s. 4.

**151.** Where an Order has been made for the Winding-up of a Company subject to the Supervision of the Court, and such Order is afterwards superseded by an Order directing the Company to be wound up compulsorily, the Court may in such last-mentioned Order, or in any subsequent Order, appoint the voluntary Liquidators or any of them, either provisionally or permanently, and either with or without the Addition of any other Persons, to be Official Liquidators. Appointment in certain Cases of voluntary Liquidators to Office of Official Liquidators. 22 Vict. c. 60. s. 8.

*Supplemental Provisions.*

**152.** Where any Company is being wound up by the Court or subject to the Supervision of the Court all Dispositions of the Property, Effects, and Things in Action of the Company, and every Transfer of Shares, or Alteration in the Status of the Members of the Company made between the Commencement of the winding up and the Order for winding up, shall, unless the Court otherwise orders, be void. Dispositions after the Commencement of the Winding-up avoided. 20 Vict. c. 47. s. 73.

**153.** Where any Company is being wound up, all Books, Accounts, and Documents of the Company and of the Liquidators shall, as between the Contributories of the Company, be primâ facie Evidence. The Books of the Company to be Evidence.

20 Vict. c. 47. s. 81.

Evidence of the Truth of all Matters purporting to be therein recorded.

As to Disposal of Books, Accounts, and Documents of the Company.

**154.** Where any Company has been wound up under this Act and is about to be dissolved, the Books, Accounts, and Documents of the Company and of the Liquidators may be disposed of in the following Way; that is to say, where the Company has been wound up by or subject to the Supervision of the Court, in such Way as the Court directs, and where the Company has been wound up voluntarily, in such Way as the Company by an Extraordinary Resolution directs; but after the Lapse of Five Years from the Date of such Dissolution, no Responsibility shall rest on the Company, or the Liquidators, or anyone to whom the Custody of such Books, Accounts, and Documents has been committed, by reason that the same, or any of them, cannot be made forthcoming to any Party or Parties claiming to be interested therein.

Inspection of Books. 22 Vict. c. 60. s. 7.

**155.** Where an Order has been made for winding up a Company by the Court, or subject to the Supervision of the Court, the Court may make such Order for the Inspection by the Creditors and Contributories of the Company of its Books and Papers as the Court thinks just, and any Books and Papers in the Possession of the Company may be inspected by Creditors or Contributories, in conformity with the Order of the Court, but not further or otherwise.

Power of Assignee to sue.

**156.** Any Person to whom any Thing in Action belonging to the Company is assigned, in pursuance of this Act, may bring or defend any Action or Suit relating to such Thing in Action in his own Name.

Debts of all Descriptions to be proved. 12 & 13 Vict. c. 106. s. 178.

**157.** In the event of any Company being wound up under this Act, all Debts payable on a Contingency, and all Claims against the Company, present or future, certain or contingent, ascertained or sounding only in Damages, shall be admissible to Proof against the Company, a just Estimate being made, so far as is possible, of the Value of all such Debts or Claims as may be subject to any Contingency or sound only in Damages, or for some other Reason do not bear a certain Value.

General Scheme of Liquidation may be sanctioned. 22 Vict. c. 60. s. 10.

**158.** The Liquidators may, with the Sanction of the Court, where the Company is being wound up by the Court or subject to the Supervision of the Court, and with the Sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, pay any Classes of Creditors in full, or make such Compromise or other Arrangement as the Liquidators may deem expedient with Creditors or Persons claiming to be Creditors, or

Persons

Persons having or alleging themselves to have any Claim, present or future, certain or contingent, ascertained or sounding only in Damages against the Company, or whereby the Company may be rendered liable.

Power to compromise. 22 Vict. c. 60. s. 19.

**159.** The Liquidators may, with the Sanction of the Court, where the Company is being wound up by the Court or subject to the Supervision of the Court, and with the Sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, compromise all Calls and Liabilities to Calls, Debts, and Liabilities capable of resulting in Debts, and all Claims, whether present or future, certain or contingent, ascertained or sounding only in Damages, subsisting or supposed to subsist between the Company and any Contributory or alleged Contributory, or other Debtor or Person apprehending Liability to the Company, and all Questions in any way relating to or affecting the Assets of the Company or the winding up of the Company, upon the Receipt of such Sums, payable at such Times, and generally upon such Terms as may be agreed upon, with Power for the Liquidators to take any Security for the Discharge of such Debts or Liabilities, and to give complete Discharges in respect of all or any such Calls, Debts, or Liabilities.

Power for Liquidators to accept Shares, &c. as a Consideration for Sale of Property of Company. 21 Vict. c. 14. s. 17.

**160.** Where any Company is proposed to be or is in the course of being wound up altogether voluntarily, and the whole or a Portion of its Business or Property is proposed to be transferred or sold to another Company, the Liquidators of the first-mentioned Company may, with the Sanction of a Special Resolution of the Company by whom they were appointed, conferring either a general Authority on the Liquidators, or an Authority in respect of any particular Arrangement, receive in Compensation or part Compensation for such Transfer or Sale Shares, Policies, or other like Interests in such other Company, for the Purpose of Distribution amongst the Members of the Company being wound up, or may enter into any other Arrangement whereby the Members of the Company being wound up may, in lieu of receiving Cash, Shares, Policies, or other like Interests, or in addition thereto, participate in the Profits of or receive any other Benefit from the purchasing Company; and any Sale made or Arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the Members of the Company being wound up; subject to this Proviso that if any Member of the Company being wound up who has not voted in favour of the Special Resolution passed by the Company of which he is a Member at either of the Meetings held for passing the same expresses his Dissent from any such Special Resolution in Writing addressed to the Liquidators or One of them, and left

at the registered Office of the Company not later than Seven Days after the Date of the Meeting at which such Special Resolution was passed, such dissentient Member may require the Liquidators to do One of the following Things as the Liquidators may prefer; that is to say, either to abstain from carrying such Resolution into effect, or to purchase the Interest held by such dissentient Member at a Price to be determined in manner herein-after mentioned, such Purchase Money to be paid before the Company is dissolved, and to be raised by the Liquidators in such Manner as may be determined by Special Resolution: No Special Resolution shall be deemed invalid for the Purposes of this Section by reason that it is passed antecedently to or concurrently with any Resolution for winding up the Company, or for appointing Liquidators; but if an Order be made within a Year for winding up the Company by or subject to the Supervision of the Court, such Resolution shall not be of any Validity unless it is sanctioned by the Court.

Mode of determining Price.

**161.** The Price to be paid for the Purchase of the Interest of any dissentient Member may be determined by Agreement, but if the Parties dispute about the same, such Dispute shall be settled by Arbitration, and for the Purposes of such Arbitration the Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the Settlement of Disputes by Arbitration, shall be incorporated with this Act; and in the Construction of such Provisions this Act shall be deemed to be the Special Act, and "the Company" shall mean the Company that is being wound up, and any Appointment by the said incorporated Provisions directed to be made under the Hand of the Secretary, or any Two of the Directors, may be made under the Hand of the Liquidator, if only One, or any Two or more of the Liquidators if more than One.

Certain Attachments, Sequestrations, and Executions to be void. 20 Vict. c. 47. s. 80.

**162.** Where any Company is being wound up by the Court or subject to the Supervision of the Court, any Attachment, Sequestration, Distress, or Execution put in force against the Estate or Effects of the Company after the Commencement of the Winding-up shall be void to all Intents.

Fraudulent Preference. 20 Vict. c. 47. s. 76.

**163.** Any such Conveyance, Mortgage, Delivery of Goods, Payment, Execution, or other Act relating to Property, as would, if made or done by or against any individual Trader, be deemed in the event of his Bankruptcy to have been made or done by way of undue or fraudulent Preference of the Creditors of such Trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent Preference of the Creditors of

of such Company, and shall be invalid accordingly; and for the Purposes of this Section the Presentation of a Petition for winding up a Company shall in the Case of a Company being wound up by the Court or subject to the Supervision of the Court, and a Resolution for winding up the Company shall in the Case of a voluntary Winding-up be deemed to correspond with the Act of Bankruptcy in the Case of an individual Trader; and any Conveyance or Assignment made by any Company formed under this Act of all its Estate and Effects to Trustees for the Benefit of all its Creditors shall be void to all Intents.

Power of Court to assess Damages against delinquent Directors and Officers.

**164.** Where, in the course of the Winding-up of any Company under this Act, it appears that any past or present Director, Manager, or Officer of such Company has misapplied or retained in his own Hands or become liable or accountable for any Moneys of the Company, or been guilty of any Misfeasance or Breach of Trust in relation to the Company, the Court may, on the Application of the Liquidators, or of any Creditor or Contributory of the Company, notwithstanding that the Offence is one for which the Offender is criminally responsible, examine into the Conduct of such Director, Manager, or other Officer, and compel him to repay any Moneys so misapplied or retained, or for which he has become liable or accountable, together with Interest, after such Rate as the Court thinks just, or to contribute such Sums of Money to the Assets of the Company, by way of Compensation in respect of such Misapplication, Retainer, Misfeasance, or Breach of Trust, as the Court thinks just.

Penalty on Falsification of Books. 20 Vict. c. 47. s. 79.

**165.** If any Director, Officer, or Contributory of any Company wound-up under this Act destroys, mutilates, alters, or falsifies any Books, Papers, Writings, or Securities, or makes or is privy to the making of any false or fraudulent Entry in any Register, Book of Account, or other Document belonging to the Company, with Intent to defraud or deceive any Person, every Person so offending shall be deemed to be guilty of a Misdemeanor, and upon being convicted shall be liable to Imprisonment for any Term not exceeding Two Years, with or without Hard Labour.

Prosecution of delinquent Directors in the Case of winding up by Court. 22 Vict. c. 60. s. 20.

**166.** Where any Order is made for winding up a Company by the Court or subject to the Supervision of the Court, if it appear in the course of such Winding-up that any past or present Director, Manager, Officer, or Member of such Company has been guilty of any Offence in relation to the Company for which he is criminally responsible, the Court may, on the Application of any Person interested in such Winding-up, or of its own Motion, direct the Official Liquidators, or the Liquidators, (as the Case may be,) to

institute and conduct a Prosecution or Prosecutions for such Offence, and may order the Costs and Expenses to be paid out of the Assets of the Company.

Prosecution of delinquent Directors, &c. in case of voluntary Winding-up. 22 Vict. c. 60. s. 21.

**167.** Where a Company is being wound up altogether voluntarily, if it appear to the Liquidators conducting such Winding-up that any past or present Director, Manager, Officer, or Member of such Company has been guilty of any Offence in relation to the Company for which he is criminally responsible, it shall be lawful for the Liquidators, with the previous Sanction of the Court, to prosecute such Offender, and all Expenses properly incurred by them in such Prosecution shall be payable out of the Assets of the Company in priority to all other Liabilities.

Penalty of Perjury. 11 & 12 Vict. c. 45. s. 113.

**168.** If any Person, upon any Examination upon Oath or Affirmation authorized under this Act, or in any Affidavit, Deposition, or solemn Affirmation in or about the Winding-up of any Company under this Act, or otherwise in or about any Matter arising under this Act, wilfully and corruptly gives false Evidence, he shall, upon Conviction, be liable to the Penalties of wilful Perjury.

*Power of Courts to make Rules.*

Clause A. Power of Lord Chancellor of Great Britain to make Rules. 20 Vict. c. 47. s. 95.

**169.** In England the Lord Chancellor of Great Britain, with the Advice and Consent of the Master of the Rolls, and any One of the Vice Chancellors for the Time being, or with the Advice and Consent of any Two of the Vice Chancellors, may, as often as Circumstances require, make such Rules concerning the Mode of Proceeding to be had for winding up a Company in the Court of Chancery as may from Time to Time seem necessary, but until such Rules are made the general Practice of the Court of Chancery, including the Practice hitherto in use in winding up Companies shall, so far as the same is applicable and not inconsistent with this Act, apply to all Proceedings for winding up a Company, and the Official Liquidator shall be considered as occupying in all respects the Place of the Official Manager.

Power of Court of Session in Scotland to make Rules. 20 Vict. c. 47. s. 97.

**170.** In Scotland the Court of Session may make such Rules concerning the Mode of Winding-up as may be necessary by Act of Sederunt; but, until such Rules are made, the general Practice of the Court of Session in Suits pending in such Court shall, so far as the same is applicable, and not inconsistent with this Act, apply to all Proceedings for winding up a Company, and Official Liquidators shall in all respects be considered as possessing the same Powers as any Trustee on a Bankrupt Estate.

**171.** The

Power to make Rules in Stannaries Court. 20 Vict. c. 47. s. 98.

**171.** The Vice Warden of the Stannaries may from Time to Time, with the Consent provided for by Section Twenty-three of the Act of Eighteenth of Victoria, Chapter Thirty-two, make Rules for carrying into effect the Powers conferred by this Act upon the Court of the Vice Warden, but, subject to such Rules, the general Practice of the said Court and of the Registrar's Office in the said Court shall apply to all Proceedings under this Act; the said Vice Warden may likewise, with the same Consent, make from Time to Time Rules for specifying the Fees to be taken in his said Court in Proceedings under this Act; and any Rules so made shall be of the same Force as if they had been enacted in the Body of this Act.

CLAUSE B. Power of Lord Chancellor of Ireland to make Rules. 20 Vict. c. 47. s. 96.

**172.** In Ireland the Lord Chancellor of Ireland may, as respects the Winding-up of Companies in Ireland, with the Advice and Consent of the Master of the Rolls in Ireland, exercise the same Power of making Rules as is by this Act herein-before given to the Lord Chancellor of Great Britain; but until such Rules are made the general Practice of the Court of Chancery in Ireland, including the Practice hitherto in use in Ireland in winding up Companies, shall, so far as the same is applicable and not inconsistent with this Act, apply to all Proceedings for winding up a Company, and the Official Liquidator shall in all respects be considered as occupying the Place of the Official Manager.

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## PART V.

### REGISTRATION OFFICE.

Constitution of Registration Office. 20 Vict. c. 47. s. 106.

**173.** The Registration of Companies under this Act shall be conducted as follows; (that is to say,)

(1.) The Board of Trade may from Time to Time appoint such Registrars, Assistant Registrars, Clerks, and Servants, as they may think necessary for the Registration of Companies under this Act, and remove them at pleasure:

(2.) The Board of Trade may make such Regulations as they think fit with respect to the Duties to be performed by any such Registrars, Assistant Registrars, Clerks, and Servants as aforesaid:

(3.) The Board of Trade may from Time to Time determine the Places at which Offices for the Registration of Companies are to be established, so that there be at all Times maintained in each of the Three Parts of the United Kingdom at least One such Office, and that no Company shall be registered except at an Office within that Part of

the United Kingdom in which by the Memorandum of Association the registered Office of the Company is declared to be established; and the Board may require that the Registrar's Office of the Court of the Vice Warden of the Stannaries shall be One of the Offices for the Registration of Companies formed for working Mines within the Jurisdiction of the Court:

(4.) The Board of Trade may from Time to Time direct a Seal or Seals to be prepared for the Authentication of any Documents required for or connected with the Registration of Companies:

(5.) Every Person may inspect the Documents kept by the Registrar of Joint Stock Companies; and there shall be paid for such Inspection such Fees as may be appointed by the Board of Trade, not exceeding One Shilling for each Inspection; and any Person may require a Certificate of the Incorporation of any Company, or a Copy or Extract of any other Document or any Part of any other Document, to be certified by the Registrar; and there shall be paid for such Certificate of Incorporation, certified Copy, or Extract, such Fees as the Board of Trade may appoint, not exceeding Five Shillings for the Certificate of Incorporation, and not exceeding Sixpence for each Folio of such Copy or Extract, or in Scotland for each Sheet of Two hundred Words:

(6.) The existing Registrar, Assistant Registrars, Clerks, and other Officers and Servants in the Office for the Registration of Joint Stock Companies, shall, during the Pleasure of the Board of Trade, hold the Offices and receive the Salaries hitherto held and received by them, but they shall in the Execution of their Duties conform to any Regulations that may be issued by the Board of Trade:

(7.) There shall be paid to any Registrar, Assistant Registrar, Clerk, or Servant that may hereafter be employed in the Registration of Joint Stock Companies such Salary as the Board of Trade may, with the Sanction of the Commissioners of the Treasury, direct:

(8.) Whenever any Act is herein directed to be done to or by the Registrar of Joint Stock Companies, such Act shall, until the Board of Trade otherwise directs, be done in England to or by the existing Registrar of Joint Stock Companies, or in his Absence to or by such Person as the Board of Trade may for the Time being authorize; in Scotland to or by the existing Registrar of Joint Stock Companies in Scotland; and in Ireland to or by the existing Assistant Registrar of Joint

Joint Stock Companies for Ireland, or by such Person as the Board of Trade may for the Time being authorize in Scotland or Ireland in the Absence of the Registrar: but, in the event of the Board of Trade altering the Constitution of the existing Registry Office, such Act shall be done to or by such Officer or Officers and at such Place or Places with reference to the local Situation of the registered Offices of the Companies to be registered, as the Board of Trade may appoint.

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## PART VI.

### Application of Act to Companies registered under the Joint Stock Companies Acts.

Definition of Joint Stock Companies Acts.

**174.** The Expression "Joint Stock Companies Acts" as used in this Act shall mean "The Joint Stock Companies Act, 1856," "The Joint Stock Companies Acts, 1856, 1857," "The Joint Stock Banking Companies Act, 1857," and "The Act to enable Joint Stock Banking Companies to be formed on the Principle of Limited Liability," or any One or more of such Acts, as the Case may require; but shall not include the Act passed in the Eighth Year of the Reign of Her present Majesty, Chapter One hundred and ten, and intituled "An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies."

Application of Act to Companies formed under Joint Stock Companies Acts.

**175.** Subject as herein-after mentioned, this Act, with the Exception of Table A. in the First Schedule, shall apply to Companies formed and registered under the said Joint Stock Companies Acts, or any of them, in the same Manner in the Case of a Limited Company as if such Company had been formed and registered under this Act as a Company limited by Shares, and in the Case of a Company other than a Limited Company as if such Company had been formed and registered as an Unlimited Company under this Act, with this Qualification, that wherever Reference is made expressly or impliedly to the Date of Registration, such Date shall be deemed to refer to the Date at which such Companies were respectively registered under the said Joint Stock Companies Acts or any of them, and the Power of altering Regulations by Special Resolution given by this Act shall, in the Case of any Company formed and registered under the said Joint Stock Companies Acts or any of them, extend to altering any Provisions contained in the Table marked B. annexed to "The Joint Stock Companies Act, 1856," and shall also in the Case of

of an Unlimited Company formed and registered as last aforesaid extend to altering any Regulations relating to the Amount of Capital or its Distribution into Shares, notwithstanding such Regulations are contained in the Memorandum of Association.

Application of Act to Companies registered under Joint Stock Companies Acts.

**176.** This Act shall apply to Companies registered but not formed under the said Joint Stock Companies Acts or any of them, in the same Manner as it is herein-after declared to apply to Companies registered but not formed under this Act, with this Qualification, that wherever Reference is made expressly or impliedly to the Date of Registration, such Date shall be deemed to refer to the Date at which such Companies were respectively registered under the said Joint Stock Companies Acts or any of them.

Mode of transferring Shares.

**177.** Any Company registered under the said Joint Stock Companies Acts or any of them may cause its Shares to be transferred in manner hitherto in use, or in such other Manner as the Company may direct.

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## PART VII.

### Companies authorized to register under this Act.

Clause C. Regulations as to Registration of existing Companies. 21 Vict. c. 14. s. 29.

**178.** The following Regulations shall be observed with respect to the Registration of Companies under this Part of this Act; (that is to say,)

(1.) No Company having the Liability of its Members limited by Act of Parliament or Letters Patent, and not being a Joint Stock Company as herein-after defined, shall register under this Act in pursuance of this Part thereof:

(2.) No Company having the Liability of its Members limited by Act of Parliament or by Letters Patent shall register under this Act in pursuance of this Part thereof as an Unlimited Company, or as a Company limited by Guarantee:

(3.) No Company that is not a Joint Stock Company as herein-after defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by Shares:

(4.) No Company shall register under this Act in pursuance of this Part thereof unless an Assent to its so registering is given by a Majority of such of its Members as may be present, personally or by Proxy, in Cases where Proxies are allowed by the Regulations of the Company, at some General Meeting summoned for the Purpose:

(5.) Where

(5.) Where a Company not having the Liability of its Members limited by Act of Parliament or Letters Patent is about to register as a Limited Company, the Majority required to assent as aforesaid shall consist of not less than Three Fourths of the Members present, personally or by Proxy, at such last-mentioned General Meeting:

(6.) Where a Company is about to register as a Company limited by Guarantee the Assent to its being so registered shall be accompanied by a Resolution declaring that each Member undertakes to contribute to the Assets of the Company, in the event of the same being wound up, during the Time that he is a Member, or within One Year afterwards, for Payment of the Debts and Liabilities of the Company contracted before the Time at which he ceased to be a Member, and of the Costs, Charges, and Expenses of winding up the Company, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required, not exceeding a specified Amount:

In computing any Majority under this Section when a Poll is demanded, regard shall be had to the Number of Votes to which each Member is entitled according to the Regulations of the Company of which he is a Member.

CLAUSE D.

Companies capable of being registered. 21 Vict. c. 14. s. 29.

**179.** With the above Exceptions, and subject to the foregoing Regulations, every Company existing at the Time of the Commencement of this Act, including any Company registered under the said Joint Stock Companies Acts, consisting of Seven or more Members, and any Company hereafter formed in pursuance of any Act of Parliament, other than this Act, or of Letters Patent, or being a Company engaged in working Mines within and subject to the Jurisdiction of the Stannaries, or being otherwise duly constituted by Law, and consisting of Seven or more Members, may at any Time hereafter register itself under this Act as an Unlimited Company, or a Company limited by Shares, or a Company limited by Guarantee; and no such Registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Definition of Joint Stock Company.

**180.** For the Purposes of this Part of this Act, so far as the same relates to the Description of Companies empowered to register as Companies limited by Shares, a Joint Stock Company shall be deemed to be a Company having a permanent paid-up or

nominal Capital of fixed Amount, divided into Shares, also of fixed Amount, or held and transferable as Stock, or divided and held partly in one way and partly in the other, and formed on the Principle of having for its Members the Holders of Shares in such Capital, or the Holders of such Stock, and no other Persons; and such Company when registered with Limited Liability under this Act shall be deemed to be a Company limited by Shares.

Proviso as to Banking Company. 22 Vict. c. 91. s. 1.

**181.** No Banking Company claiming to issue Notes in the United Kingdom shall be entitled to Limited Liability in respect of such Issue, but shall continue subject to Unlimited Liability in respect thereof, and, if necessary, the Assets shall be marshalled for the Benefit of the general Creditors, and the Members shall be liable for the whole Amount of the Issue, in addition to the Sum for which they would be liable as Members of a Limited Company.

Requisitions for Registration by Companies. 20 Vict. c. 47. s. 111.

**182.** Previously to the Registration in pursuance of this Part of this Act of any Joint Stock Company there shall be delivered to the Registrar the following Documents; (that is to say,)

(1.) A List showing the Names, Addresses, and Occupations of all Persons who on a Day named in such List, and not being more than Six clear Days before the Day of Registration, were Members of such Company, with the addition of the Shares held by such Persons respectively, distinguishing, in Cases where such Shares are numbered, each Share by its Number:

(2.) A Copy of any Act of Parliament, Royal Charter, Letters Patent, Deed of Settlement, Contract of Copartnery, Cost Book Regulations, or other Instrument constituting or regulating the Company:

(3.) If any such Joint Stock Company is intended to be registered as a Limited Company, the above List and Copy shall be accompanied by a Statement specifying the following Particulars; that is to say,

The nominal Capital of the Company and the Number of Shares into which it is divided:

The Number of Shares taken and the Amount paid on each Share:

The Name of the Company, with the Addition of the Word "Limited" as the last Word thereof:

With the Addition, in the Case of a Company intended to be registered as a Company Limited by Guarantee, of the Resolution declaring the Amount of the Guarantee.

**183.** Previously

Requisitions for Registration by existing Company not being a Joint Stock Company.

**183.** Previously to the Registration in pursuance of this Part of this Act of any Company not being a Joint Stock Company, there shall be delivered to the Registrar a List showing the Names, Addresses, and Occupations of the Directors or other Managers (if any) of the Company, also a Copy of any Act of Parliament, Letters Patent, Deed of Settlement, Contract of Copartnery, Cost Book Regulations, or other Instrument constituting or regulating the Company, with the Addition, in the Case of a Company intended to be registered as a Company limited by Guarantee, of the Resolution declaring the Amount of Guarantee.

Power for existing Company to register Amount of Stock instead of Shares. 21 Vict. c. 14. s. 30.

**184.** Where a Joint Stock Company authorized to register under this Act has had the whole or any Portion of its Capital converted into Stock, such Company shall, as to the Capital so converted, instead of delivering to the Registrar a Statement of Shares, deliver to the Registrar a Statement of the Amount of Stock belonging to the Company, and the Names of the Persons who were Holders of such Stock, on some Day to be named in the Statement, not more than Six clear Days before the Day of Registration.

Authentication of Statements of existing Companies. 20 Vict. c. 47. s. 112.

**185.** The Lists of Members and Directors and any other Particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by a Declaration of the Directors of the Company delivering the same, or any Two of them, or of any Two other principal Officers of the Company, made in pursuance of the Act passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two.

Registrar may require Evidence as to Nature of Company.

**186.** The Registrar may require such Evidence as he thinks necessary for the Purpose of satisfying himself whether an existing Company is or not a Joint Stock Company as herein-before defined.

On Registration of Banking Company with Limited Liability Notice to be given to Customers. 22 Vict. c. 91. s. 3.

**187.** Every Banking Company existing at the Date of the passing of this Act which registers itself as a Limited Company shall, at least Thirty Days previous to obtaining a Certificate of Registration with Limited Liability, give Notice that it is intended so to register the same to every Person and Partnership Firm who have a Banking Account with the Company, and such Notice shall be given either by delivering the same to such Person or Firm, or leaving the same or putting the same into the Post addressed to him or them at such Address as shall have been last communicated or otherwise become known as his or their Address to or by the Company; and in case the Company omits to give any such Notice as is herein-before required to be given, then as between the Company and the

Person or Persons only who are for the Time being interested in the Account in respect of which such Notice ought to have been given, and so far as respects such Account and all Variations thereof down to the Time at which such Notice shall be given, but not further or otherwise, the Certificate of Registration with Limited Liability shall have no Operation.

Exemption of certain Companies from Payment of Fees. 21 Vict. c. 14. s. 32.

**188.** No Fees shall be charged in respect of the Registration in pursuance of this Part of this Act of any Company in Cases where such Company is not registered as a Limited Company, or where previously to its being registered as a Limited Company the Liability of the Shareholders was limited by some other Act of Parliament or by Letters Patent.

Power to Company to change Name. 20 Vict. c. 47. s. 114.

**189.** Any Company authorized by this Part of this Act to register with Limited Liability shall, for the Purpose of obtaining Registration with Limited Liability, change its Name, by adding thereto the Word "Limited."

Certificate of Registration of existing Companies. 20 Vict. c. 47. s. 113.

**190.** Upon Compliance with the Requisitions in his Part of this Act contained with respect to Registration, and on Payment of such Fees, if any, as are payable under the Tables marked B. and C. in the First Schedule hereto, the Registrar shall certify under his Hand that the Company so applying for Registration is incorporated as a Company under this Act, and, in the Case of a Limited Company, that it is limited, and thereupon such Company shall be incorporated, and shall have perpetual Succession and a Common Seal, with Power to hold Lands; and any Banking Company in Scotland so incorporated shall be deemed and taken to be a Bank incorporated, constituted, or established by or under Act of Parliament.

Certificate to be Evidence of Compliance with Act. 20 Vict. c. 47. s. 115.

**191.** A Certificate of Incorporation given at any Time to any Company registered in pursuance of this Part of this Act shall be conclusive Evidence that all the Requisitions herein contained in respect of Registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a Limited or Unlimited Company, as the Case may be, and the Date of Incorporation mentioned in such Certificate shall be deemed to be the Date at which the Company is incorporated under this Act.

Transfer of Property to Company. 21 Vict. c. 49. s. 16.

**192.** All such Property, Real and Personal, including all Interests and Rights in, to, and out of Property, Real and Personal, and including Obligations and Things in Action, as may belong to or be vested

vested in the Company at the Date of its Registration under this Act, shall on Registration pass to and vest in the Company as incorporated under this Act, for all the Estate and Interest of the Company therein.

Registration under this Act not to affect Obligations incurred previously to Registration.

**193.** The Registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the Liability of such Company to have enforced against it, or its Right to enforce, any Debt or Obligation incurred, or any Contract entered into, by, to, with, or on behalf of such Company, previously to such Registration.

21 Vict. c. 49. s. 8.

Continuation of existing Actions and Suits.

21 Vict. c. 49. s. 10.

**194.** All such Actions, Suits, and other legal Proceedings as may at the Time of the Registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the Public Officer or any Member thereof, may be continued in the same Manner as if such Registration had not taken place; nevertheless, Execution shall not issue against the Effects of any individual Member of such Company upon any Judgment, Decree, or Order obtained in any Action, Suit, or Proceeding so commenced as aforesaid; but in the event of the Property and Effects of the Company being insufficient to satisfy such Judgment, Decree, or Order, an Order may be obtained for winding up the Company.

Effect of Registration under Act.

21 Vict. c. 14. s. 33.

11 & 12 Vict. c. 45. s. 3.

**195.** When a Company is registered under this Act in pursuance of this Part thereof, all Provisions contained in any Act of Parliament, Deed of Settlement, Contract of Copartnery, Cost Book Regulations, Letters Patent, or other Instrument constituting or regulating the Company, including, in the Case of a Company registered as a Company Limited by Guarantee, the Resolution declaring the Amount of the Guarantee, shall be deemed to be Conditions and Regulations of the Company, in the same Manner and with the same Incidents as if they were contained in a registered Memorandum of Association and Articles of Association; and all the Provisions of this Act shall apply to such Company and the Members, Contributories, and Creditors thereof, in the same Manner in all respects as if it had been formed under this Act, subject to the Provisions following; (that is to say,)

(1.) That Table A. in the First Schedule to this Act shall not, unless adopted by Special Resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(2.) That the Provisions of this Act relating to the numbering of Shares shall not apply to any Joint Stock Company whose Shares are not numbered:

(3.) That no Company shall have Power to alter any Provision contained in any Act of Parliament relating to the Company:

(4.) That no Company shall have Power, without the Sanction of the Board of Trade, to alter any Provision contained in any Letters Patent relating to the Company:

(5.) That in the event of the Company being wound up, every Person shall be a Contributory, in respect of the Debts and Liabilities of the Company contracted prior to Registration, who is liable, at Law or in Equity, to pay or contribute to the Payment of any Debt or Liability of the Company contracted prior to Registration, or to pay or contribute to the Payment of any Sum for the Adjustment of the Rights of the Members amongst themselves in respect of any such Debt or Liability; or to pay or contribute to the Payment of the Costs, Charges, and Expenses of winding up the Company, so far as relates to such Debts or Liabilities as aforesaid; and every such Contributory shall be liable to contribute to the Assets of the Company, in the course of the Winding-up, all Sums due from him in respect of any such Liability as aforesaid; and in the event of the Death, Bankruptcy, or Insolvency of any such Contributory as last aforesaid, or Marriage of any such Contributory being a Female, the Provisions herein-before contained with respect to the Representatives, Heirs, and Devisees of deceased Contributories, and with reference to the Assignees of bankrupt or insolvent Contributories, and to the Husbands of married Contributories, shall apply:

(6.) That nothing herein contained shall authorize any Company to alter any such Provisions contained in any Deed of Settlement, Contract of Copartnery, Cost Book Regulations, Letters Patent, or other Instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the Memorandum of Association, and are not authorized to be altered by this Act:

But nothing herein contained shall derogate from any Power of altering its Constitution or Regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Deed of Settlement, Contract of Copartnery, Letters Patent, or other Instrument constituting or regulating the Company.

**196.** The

**196.** The Court may, at any Time after the Presentation of a Petition for winding up a Company registered in pursuance of this Part of this Act, and before making an Order for winding up the Company, upon the Application by Motion of any Creditor of the Company, restrain further Proceedings in any Action, Suit, or legal Proceeding against any Contributory of the Company as well as against the Company as herein-before provided, upon such Terms as the Court thinks fit.

Power of Court to restrain further Proceedings. 20 Vict. c. 47. s. 84.

**197.** Where an Order has been made for winding up a Company registered in pursuance of this Part of the Act, in addition to the Provisions herein-before contained, it is hereby further provided that no Suit, Action, or other legal Proceeding shall be commenced or proceeded with against any Contributory of the Company in respect of any Debt of the Company, except with the Leave of the Court, and subject to such Terms as the Court may impose.

Order for winding up Company. 20 Vict. c. 47. s. 73.

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## PART VIII.

### Application of Act to unregistered Companies.

**198.** Subject as herein-after mentioned, any Partnership, Association, or Company consisting of more than Seven Members, and not registered under this Act, and herein-after included under the Term unregistered Company, may be wound up under this Act, and all the Provisions of this Act with respect to winding up shall apply to such Company, with the following Exceptions and Additions:

Winding-up of unregistered Companies. 11 & 12 Vict. c. 45. ss. 1, 2, 3.

(1.) An unregistered Company shall, for the Purpose of determining the Court having Jurisdiction in the Matter of the Winding-up, be deemed to be registered in that Part of the United Kingdom where its principal Place of Business is situate; or, if it has a principal Place of Business situate in more than One Part of the United Kingdom, then in each Part of the United Kingdom where it has a principal Place of Business; moreover the principal Place of Business of an unregistered Company, or (where it has a principal Place of Business situate in more than One Part of the United Kingdom) such One of its principal Places of Business as is situate in that Part of the United Kingdom in which Proceedings are being instituted, shall for all the Purposes

of this Part of this Act be deemed to be the registered Office of the Company:

(2.) No unregistered Company shall be wound up under this Act voluntarily or subject to the Supervision of the Court:

(3.) The Circumstances under which an unregistered Company may be wound up are as follows; (that is to say,)

(*a.*) Whenever the Company is dissolved, or has ceased to carry on Business, or is carrying on Business only for the Purpose of winding up its Affairs;

(*b.*) Whenever the Company is unable to pay its Debts;

(*c.*) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up:

(4.) An unregistered Company shall, for the Purposes of this Act, be deemed to be unable to pay its Debts,

(*a.*) Whenever a Creditor to whom the Company is indebted, at Law or in Equity, by Assignment or otherwise, in a Sum exceeding Fifty Pounds then due, has served on the Company, by leaving the same at the principal Place of Business of the Company, or by delivering to the Secretary or some Director or principal Officer of the Company, or by otherwise serving the same in such Manner as the Court may approve or direct, a Demand under his Hand requiring the Company to pay the Sum so due, and the Company has for the Space of Three Weeks succeeding the Service of such Demand neglected to pay such Sum, or to secure or compound for the same to the Satisfaction of the Creditor:

See 20 Vict. c. 47. s. 68.
11 & 12 Vict. c. 45. s. 5.

(*b.*) Whenever any Action, Suit, or other Proceeding has been instituted against any Member of the Company for any Debt or Demand due, or claimed to be due, from the Company, or from him in his Character of Member of the Company, and Notice in Writing of the Institution of such Action, Suit, or other legal Proceeding having been served upon the Company by leaving the same at the principal Place of Business of the Company, or by delivering it to the Secretary, or some Director, Manager, or principal Officer of the Company, or by otherwise serving the same in such Manner as the Court may approve or direct, the Company has not within Ten Days after Service of such Notice paid, secured, or compounded for such Debt or Demand, or procured such Action, Suit, or other legal Proceeding to be stayed, or indemnified

indemnified the Defendant to his reasonable Satisfaction against such Action, Suit, or other legal Proceeding, and against all Costs, Damages, and Expenses to be incurred by him by reason of the same:

(*c.*) Whenever, in England or Ireland, Execution or other Process issued on a Judgment, Decree, or Order obtained in any Court in favour of any Creditor in any Proceeding at Law or in Equity instituted by such Creditor against the Company, or any Member thereof as such, or against any Person authorized to be sued as nominal Defendant on behalf of the Company, is returned unsatisfied:

(*d.*) Whenever, in the Case of an unregistered Company engaged in working Mines within and subject to the Jurisdiction of the Stannaries, a customary Decree or Order absolute for the Sale of the Machinery, Materials, and Effects of such Mine has been made in a Creditor's Suit in the Court of the Vice Warden:

(*e.*) Whenever, in Scotland, the Induciæ of a Charge for Payment on an Extract Decree, or an Extract registered Bond, or an Extract registered Protest, have expired without Payment being made:

(*f.*) Whenever it is otherwise proved to the Satisfaction of the Court that the Company is unable to pay its Debts.

Who to be deemed a Contributory in the event of Company being wound up. 11 & 12 Vict. c. 45. s. 3.

**199.** In the event of an unregistered Company being wound up every Person shall be deemed to be a Contributory who is liable, at Law or in Equity, to pay or contribute to the Payment of any Debt or Liability of the Company, or to pay or contribute to the Payment of any Sum for the Adjustment of the Rights of the Members amongst themselves, or to pay or contribute to the Payment of the Costs, Charges, and Expenses of winding up the Company, and every such Contributory shall be liable to contribute to the Assets of the Company in the course of the Winding-up all Sums due from him in respect of any such Liability as aforesaid; but in the event of the Death, Bankruptcy, or Insolvency of any Contributory, or Marriage of any Female Contributory, the Provisions herein-before contained with respect to the Personal Representatives, Heirs, and Devisees of a deceased Contributory, and to the Assignees of a bankrupt or insolvent Contributory, and to the Husband of married Contributories, shall apply.

Power of Court to restrain further Proceedings.

**200.** The Court may, at any Time after the Presentation of a Petition for winding up an unregistered Company, and before making an Order for winding up the Company, upon the Application of any Creditor

20 Vict. c. 47. s. 84.

Creditor of the Company, restrain further Proceedings in any Action, Suit, or Proceeding against any Contributory of the Company, or against the Company as herein-before provided, upon such Terms as the Court thinks fit.

Effect of Order for winding up Company.

20 Vict. c. 47. s. 68.

**201.** Where an Order has been made for winding up an unregistered Company in addition to the Provisions herein-before contained in the Case of Companies formed under this Act, it is hereby further provided that no Suit, Action, or other legal Proceeding shall be commenced or proceeded with against any Contributory of the Company in respect of any Debt of the Company, except with the Leave of the Court, and subject to such Terms as the Court may impose.

Provision in case of unregistered Company.

11 & 12 Vict. c. 45. s. 29.

**202.** If any unregistered Company has no Power to sue and be sued in a common Name, or if for any Reason it appears expedient, the Court may by the Order made for winding up such Company, or by any subsequent Order, direct that all such Property, Real and Personal, including all Interest, Claims, and Rights into and out of Property, Real and Personal, and including Things in Action, as may belong to or be vested in the Company, or to or in any Person or Persons on Trust for or on behalf of the Company, or any Part of such Property, is to vest in the Official Liquidator or Official Liquidators by his or their official Name or Names, and thereupon the same or such Part thereof as may be specified in the Order shall vest accordingly, and the Official Liquidator or Official Liquidators may, in his or their official Name or Names, or in such Name or Names and after giving such Indemnity as the Court directs, bring or defend any Actions, Suits, or other legal Proceeding relating to any Property vested in him or them, or any Actions, Suits, or other legal Proceedings necessary to be brought or defended for the Purposes of effectually winding up the Company and recovering the Property thereof.

Provisions in this Part of Act cumulative.

**203.** The Provisions made by this Part of the Act with respect to unregistered Companies shall be deemed to be made in addition to and not in restriction of any Provisions herein-before contained with respect to winding up Companies by the Court, and the Court or Official Liquidator may, in addition to anything contained in this Part of the Act, exercise any Powers or do any Act in the Case of unregistered Companies which might be exercised or done by it or him in winding up Companies formed under this Act; but an unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under this Act, and then only to the Extent provided by this Part of this Act.

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## PART IX.

## PART IX.

### Repeal of Acts, and temporary Provisions.

Repeal of Acts.

**204.** After the Commencement of this Act there shall be repealed the several Acts specified in the First Part of the Third Schedule hereto, with this Qualification, that so much of the said Acts as is set forth in the Second Part of the said Third Schedule shall be hereby re-enacted and continue in force as if unrepealed.

Saving Clause as to Repeal.

**205.** No Repeal hereby enacted shall affect,

(1.) Anything duly done under any Acts hereby repealed:

(2.) The Incorporation of any Company registered under any Act hereby repealed:

(3.) Any Right or Privilege acquired or Liability incurred under any Act hereby repealed:

(4.) Any Penalty, Forfeiture, or other Punishment incurred in respect of any Offence against any Act hereby repealed:

(5.) Table B. in the Schedule annexed to the Joint Stock Companies Act, 1856, or any Part thereof, so far as the same applies to any Company existing at the Time of the Commencement of this Act.

Saving of existing Proceedings for winding up.

**206.** Where previously to the Commencement of this Act an Order has been made for winding up a Company under any Acts or Act hereby repealed, or a Resolution has been passed for winding up a Company voluntarily, such Company shall be wound up in the same Manner and with the same Incidents as if this Act were not passed, and for the Purposes of such Winding-up such repealed Acts or Act shall be deemed to remain in full Force.

Saving of Conveyance Deeds.

**207.** Where previously to the Commencement of this Act any Conveyance, Mortgage, or other Deed has been made in pursuance of any Act hereby repealed, such Deed shall be of the same Force as if this Act had not passed, and for the Purposes of such Deed such repealed Act shall be deemed to remain in full Force.

Compulsory Registration of certain Companies. 21 Vict. c. 14. s. 27

**208.** Every Insurance Company completely registered under the Act passed in the Eighth Year of the Reign of Her present Majesty, Chapter One hundred and ten, intituled "An Act for "the Registration, Incorporation, and Regulation of Joint Stock "Companies," shall on or before the Second Day of November One thousand eight hundred and sixty-two, and every other Company required by any Act hereby repealed to register under the said Joint Stock Companies Acts, or One of such Acts, and which has

has not so registered, shall, on or before the Expiration of the Thirty-first Day from the Commencement of this Act, register itself as a Company under this Act, in manner and subject to the Regulations herein-before contained, with this Exception, that no Company completely registered under the said Act of the Eighth Year of the Reign of Her present Majesty shall be required to deliver to the Registrar a Copy of its Deed of Settlement; and for the Purpose of enabling such Insurance Companies as are mentioned in this Section to register under this Act, this Act shall be deemed to come into operation immediately on the passing thereof; nevertheless the Registration of such Companies shall not have any Effect until the Time of the Commencement of this Act. No Fees shall be charged in respect of the Registration of any Company required to register by this Section.

Penalty on Company not registering. 21 Vict. c. 14. s. 28.

**209.** If any Company required by the last Section to register under this Act makes default in complying with the Provisions thereof, then, from and after the Day upon which such Company is required to register under this Act, until the Day on which such Company is registered under this Act (which it is empowered to do at any Time), the following Consequences shall ensue; (that is to say,)

(1.) The Company shall be incapable of suing either at Law or in Equity, but shall not be incapable of being made a Defendant to a Suit either at Law or in Equity:

(2.) No Dividend shall be payable to any Shareholder in such Company:

(3.) Each Director or Manager of the Company shall for each Day during which the Company so being in default carries on Business incur a Penalty not exceeding Five Pounds, and such Penalty may be recovered by any Person, whether a Shareholder or not in the Company, and be applied by him to his own Use:

Nevertheless, such Default shall not render the Company so being in default illegal, nor subject it to any Penalty or Disability, other than as specified in this Section; and Registration under this Act shall cancel any Penalty or Forfeiture, and put an End to any Disability which any Company may have incurred under any Act hereby repealed by reason of its not having registered under the said Joint Stock Companies Acts, 1856, 1857, or One of them.

Temporary Power for Companies to change registered Office.

**210.** Upon the Application of the Directors of any Company registered under the Joint Stock Companies Acts as herein-before defined, or any of them, made within One Year after the Date of the Commencement of this Act, sanctioned by a Resolution passed at an Extraordinary General Meeting, but subject to the Restrictions herein-after

after mentioned, the Board of Trade shall have Authority by their Certificate in Writing to change the registered Office of any such Company from any one Part of the United Kingdom of Great Britain and Ireland to any other Part thereof, and the Registrar of Joint Stock Companies with whom the Memorandum of Registration of such Company has been registered shall, upon receipt of such Certificate, note in Writing upon the Margin or at the Foot of the said Memorandum the Name of the Place to which such registered Office is to be transferred, and the Day upon which such Transfer is pursuant to such Certificate to take place, and shall attach the Certificate to the Memorandum, and the said Registrar shall thereupon transmit to the Registrar of Joint Stock Companies for that Part of the United Kingdom to which the registered Office is to be so transferred Copies of the said Certificate and of the said Memorandum of Registration so noted certified by him; and the said Registrar for the said last-mentioned Part of the United Kingdom, shall, upon receipt of such Copies of Certificate and Memorandum, retain and register the same in like Manner, and on Payment of the like Fees to him as provided in the Case of the Registration of an original Memorandum of Registration, and thereupon the Place of the registered Office shall, from the said last-mentioned Registration and the said Day mentioned in the said Certificate, be the Place mentioned as such on the said Certificate: Provided, however, that such Change shall in no wise alter or affect anything theretofore done by the said Company, or any of their Rights or Liabilities in respect thereof.

Restrictions on Issue of Certificate.

**211.** The Board of Trade shall not issue their Certificate in pursuance of the foregoing Section until they are satisfied that an Advertisement of the Intention of the Company to apply to the Board of Trade for a Certificate, with a Declaration that all Parties objecting thereto are forthwith to apply to the Board of Trade, has been published once at the least in each of Four successive Weeks in the Newspapers following; that is to say, in some Newspaper circulating in the District where the registered Office of the Company is situate, and also if the Company is registered in England in the London Gazette, if in Ireland in the Dublin Gazette, if in Scotland in the Edinburgh Gazette, nor until the said Board are satisfied that the Objections, if any, that may be urged against the Issue of such Certificate are groundless.

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# FIRST SCHEDULE.

## TABLE A.

REGULATIONS for MANAGEMENT of a COMPANY LIMITED by SHARES.

*Shares.*

(1.) If several Persons are registered as joint Holders of any Share, any One of such Persons may give effectual Receipts for any Dividend payable in respect of such Share.

(2.) Every Member shall, on Payment of One Shilling, or such less Sum as the Company in General Meeting may prescribe, be entitled to a Certificate, under the Common Seal of the Company, specifying the Share or Shares held by him, and the Amount paid up thereon.

(3.) If such Certificate is worn out or lost, it may be renewed, on Payment of One Shilling, or such less Sum as the Company in General Meeting may prescribe.

*Calls on Shares.*

(4.) The Directors may from Time to Time make such Calls upon the Members, in respect of all Monies unpaid on their Shares as they think fit, provided that Twenty-one Days Notice at least is given of each Call, and each Member shall be liable to pay the Amount of Calls so made to the Persons and at the Times and Places appointed by the Directors.

(5.) A Call shall be deemed to have been made at the Time when the Resolution of the Directors authorizing such Call was passed.

(6.) If the Call payable in respect of any Share is not paid before or on the Day appointed for Payment thereof, the Holder for the Time being of such Share shall be liable to pay Interest for the same at the Rate of Five Pounds per Cent. per Annum from the Day appointed for the Payment thereof to the Time of the actual Payment.

(7.) The Directors may, if they think fit, receive from any Member willing to advance the same all or any Part of the Monies due upon the Shares held by him beyond the Sums actually called for; and upon the Monies so paid in advance, or so much thereof as from Time to Time exceeds the Amount of the Calls then made upon the Shares in respect of which such Advance has been made, the Company may pay Interest at such Rate as the Member paying such Sum in advance and the Directors agree upon.

*Transfers*

*Transfers of Shares.*

(8.) The Instrument of Transfer of any Share in the Company shall be executed both by the Transferor and Transferee, and the Transferor shall be deemed to remain a Holder of such Share until the Name of the Transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following Form :—

I *A.B.* of in consideration of the Sum of Pounds paid to me by *C.D.* of do hereby transfer to the said *C.D.* the Share [*or* Shares] numbered standing in my Name in the Books of the Company, to hold unto the said *C.D.*, his Executors, Administrators, and Assigns, subject to the several Conditions on which I held the same at the Time of the Execution hereof; and I the said *C.D.* do hereby agree to take the said Share [*or* Shares] subject to the same Conditions. As witness our Hands, the Day of .

(10.) The Company may decline to register any Transfer of Shares made by a Member who is indebted to them.

(11.) The Transfer Books shall be closed during the Fourteen Days immediately preceding the Ordinary General Meeting in each Year.

*Transmission of Shares.*

(12.) The Executors or Administrators of a deceased Member shall be the only Persons recognized by the Company as having any Title to his Share.

(13.) Any Person becoming entitled to a Share in consequence of the Death, Bankruptcy, or Insolvency of any Member, or in consequence of the Marriage of any Female Member, may be registered as a Member upon such Evidence being produced as may from Time to Time be required by the Company.

(14.) Any Person who has become entitled to a Share in consequence of the Death, Bankruptcy, or Insolvency of any Member, or in consequence of the Marriage of any Female Member, may, instead of being registered himself, elect to have some Person to be named by him registered as a Transferee of such Share.

(15.) The Person so becoming entitled shall testify such Election by executing to his Nominee an Instrument of Transfer of such Share.

(16.) The Instrument of Transfer shall be presented to the Company, accompanied with such Evidence as the Directors may require to prove the Title of the Transferor, and thereupon the Company shall register the Transferee as a Member.

*Forfeiture of Shares.*

(17.) If any Member fails to pay any Call on the Day appointed for Payment thereof, the Directors may, at any Time thereafter, during such Time as the Call remains unpaid, serve a Notice on him, requiring him to pay such Call, together with Interest and any Expenses that may have accrued by reason of such Nonpayment.

 (18.) The

(18.) The Notice shall name a further Day, on or before which such Call, and all Interest and Expenses that have accrued by reason of such Nonpayment, are to be paid. It shall also name the Place where Payment is to be made (the Place so named being either the registered Office of the Company or some other Place at which Calls of the Company are usually made payable). The Notice shall also state that in the event of Nonpayment at or before the Time and at the Place appointed the Shares in respect of which such Call was made will be liable to be forfeited.

(19.) If the Requisitions of any such Notice as aforesaid are not complied with, any Share in respect of which such Notice has been given may at any Time thereafter, before Payment of all Calls, Interest, and Expenses due in respect thereof has been made, be forfeited, by a Resolution of the Directors to that Effect.

(20.) Any Share so forfeited shall be deemed to be the Property of the Company, and may be disposed of in such Manner as the Company in General Meeting thinks fit.

(21.) Any Member whose Shares have been forfeited shall notwithstanding be liable to pay to the Company all Calls owing upon such Shares at the Time of the Forfeiture.

(22.) A statutory Declaration in Writing, that the Call in respect of a Share was made and Notice thereof given, and that Default in Payment of the Call was made, and that the Forfeiture of the Share was made by a Resolution of the Directors to that Effect, shall be sufficient Evidence of the Facts therein stated, as against all Persons entitled to such Share, and such Declaration and the Receipt of the Company for the Price of such Share shall constitute a good Title to such Share, and a Certificate of Proprietorship shall be delivered to a Purchaser, and thereupon he shall be deemed the Holder of such Share discharged from all Calls due prior to such Purchase, and he shall not be bound to see to the Application of the Purchase Money, nor shall his Title to such Share be affected by any Irregularity in the Proceedings in reference to such Sale.

*Conversion of Shares into Stock.*

(23.) The Directors may, with the Sanction of the Company previously given in General Meeting, convert any paid up Shares into Stock.

(24.) When any Shares have been converted into Stock, the several Holders of such Stock may thenceforth transfer their respective Interests therein, or any Part of such Interests, in the same Manner and subject to the same Regulations as and subject to which any Shares in the Capital of the Company may be transferred, or as near thereto as Circumstances admit.

(25.) The several Holders of Stock shall be entitled to participate in the Dividends and Profits of the Company according to the Amount of their respective Interests in such Stock; and such Interests shall, in proportion to the Amount thereof, confer on the Holders thereof respectively the same Privileges and Advantages for the Purpose of voting

voting at Meetings of the Company, and for other Purposes, as would have been conferred by Shares of equal Amount in the Capital of the Company; but so that none of such Privileges or Advantages, except the Participation in the Dividends and Profits of the Company, shall be conferred by any such aliquot Part of Consolidated Stock as would not, if existing in Shares, have conferred such Privileges or Advantages.

*Increase in Capital.*

(26.) The Directors may, with the Sanction of a special Resolution of the Company previously given in General Meeting, increase its Capital by the Issue of new Shares, such aggregate Increase to be of such Amount, and to be divided into Shares of such respective Amounts, as the Company in General Meeting directs, or, if no Direction is given, as the Directors think expedient.

(27.) Subject to any Direction to the contrary that may be given by the Meeting that sanctions the Increase of Capital, all new Shares shall be offered to the Members in proportion to the existing Shares held by them, and such Offer shall be made by Notice specifying the Number of Shares to which the Member is entitled, and limiting a Time within which the Offer, if not accepted, will be deemed to be declined, and after the Expiration of such Time, or on the Receipt of an Intimation from the Member to whom such Notice is given that he declines to accept the Shares offered, the Directors may dispose of the same in such Manner as they think most beneficial to the Company.

(28.) Any Capital raised by the Creation of new Shares shall be considered as Part of the original Capital, and shall be subject to the same Provisions with reference to the Payment of Calls, and the Forfeiture of Shares on Nonpayment of Calls, or otherwise, as if it had been Part of the original Capital.

*General Meetings.*

(29.) The First General Meeting shall be held at such Time, not being more than Six Months after the Registration of the Company, and at such Place, as the Directors may determine.

(30.) Subsequent General Meetings shall be held at such Time and Place as may be prescribed by the Company in General Meeting; and if no other Time or Place is prescribed, a General Meeting shall be held on the First Monday in February in every Year, at such Place as may be determined by the Directors.

(31.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(32.) The Directors may, whenever they think fit, and they shall upon a Requisition made in Writing by not less than One Fifth in Number of the Members of the Company, convene an Extraordinary General Meeting.

(33.) Any Requisition made by the Members shall express the Object of the Meeting proposed to be called, and shall be left at the registered Office of the Company.

(34.) Upon the Receipt of such Requisition the Directors shall forthwith proceed to convene an Extraordinary General Meeting. If they do not proceed to convene the same within Twenty-one Days from the Date of the Requisition, the Requisitionists, or any other Members amounting to the required Number, may themselves convene an Extraordinary General Meeting.

*Proceedings at General Meetings.*

(35.) Seven Days Notice at the least, specifying the Place, the Day, and the Hour of Meeting, and in case of special Business the general Nature of such Business, shall be given to the Members in manner herein-after mentioned, or in such other Manner, if any, as may be prescribed by the Company in General Meeting; but the Non-receipt of such Notice by any Member shall not invalidate the Proceedings at any General Meeting.

(36.) All Business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the Exception of sanctioning a Dividend and the Consideration of the Accounts, Balance Sheets, and the ordinary Report of the Directors.

(37.) No Business shall be transacted at any General Meeting, except the Declaration of a Dividend, unless a Quorum of Members is present at the Time when the Meeting proceeds to Business; and such Quorum shall be ascertained as follows; that is to say, if the Persons who have taken Shares in the Company at the Time of the Meeting do not exceed Ten in Number, the Quorum shall be Five; if they exceed Ten there shall be added to the above Quorum One for every Five additional Members up to Fifty, and One for every Ten additional Members after Fifty, with this Limitation, that no Quorum shall in any Case exceed Twenty.

(38.) If within One Hour from the Time appointed for the Meeting a Quorum is not present, the Meeting, if convened upon the Requisition of Members, shall be dissolved: In any other Case it shall stand adjourned to the same Day in the next Week, at the same Time and Place; and if at such adjourned Meeting a Quorum is not present, it shall be adjourned sine die.

(39.) The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

(40.) If there is no such Chairman, or if at any Meeting he is not present within Fifteen Minutes after the Time appointed for holding the Meeting, the Members present shall choose some One of their Number to be Chairman.

(41.) The Chairman may, with the Consent of the Meeting, adjourn any Meeting from Time to Time and from Place to Place, but no Business shall be transacted at any adjourned Meeting other than the Business left unfinished at the Meeting from which the Adjournment took place.

(42.) At any General Meeting, unless a Poll is demanded by at least Five Members, a Declaration by the Chairman that a Resolution has been carried, and an Entry to that Effect in the Book of Proceedings of the Company, shall be sufficient Evidence of the Fact, without Proof

Proof of the Number or Proportion of the Votes recorded in favour of or against such Resolution.

(43.) If a Poll is demanded by Five or more Members it shall be taken in such Manner as the Chairman directs, and the Result of such Poll shall be deemed to be the Resolution of the Company in General Meeting. In the Case of an Equality of Votes at any General Meeting the Chairman shall be entitled to a Second or Casting Vote.

*Votes of Members.*

(44.) Every Member shall have One Vote for every Share up to Ten: He shall have an additional Vote for every Five Shares beyond the first Ten Shares up to One hundred, and an additional Vote for every Ten Shares beyond the first Hundred Shares.

(45.) If any Member is a Lunatic or Idiot he may vote, by his Committee, Curator bonis, or other legal Curator.

(46.) If One or more Persons are jointly entitled to a Share or Shares, the Member whose Name stands first in the Register of Members as One of the Holders of such Share or Shares, and no other, shall be entitled to vote in respect of the same.

(47.) No Member shall be entitled to vote at any General Meeting unless all Calls due from him have been paid, and no Member shall be entitled to vote in respect of any Share that he has acquired by Transfer at any Meeting held after the Expiration of Three Months from the Registration of the Company, unless he has been possessed of the Share in respect of which he claims to vote for at least Three Months previously to the Time of holding the Meeting at which he proposes to vote.

(48.) Votes may be given either personally or by Proxy.

(49.) The Instrument appointing a Proxy shall be in Writing, under the Hand of the Appointor, or if such Appointor is a Corporation, under their Common Seal, and shall be attested by One or more Witness or Witnesses: No Person shall be appointed a Proxy who is not a Member of the Company.

(50.) The Instrument appointing a Proxy shall be deposited at the registered Office of the Company not less than Seventy-two Hours before the Time for holding the Meeting at which the Person named in such Instrument proposes to vote, but no Instrument appointing a Proxy shall be valid after the Expiration of Twelve Months from the Date of its Execution.

(51.) Any Instrument appointing a Proxy shall be in the following Form:—

Company Limited.

I of in the County of
being a Member of the Company Limited, and entitled to Vote *or* Votes, hereby appoint of
as my Proxy, to vote for me and on my Behalf at the [Ordinary *or* Extraordinary, *as the Case may be*] General Meeting of the Company to be held on the Day of , and at any Adjournment thereof [*or*, at any Meeting of the Company that may be held in the Year ].

As witness my Hand, this Day of .

Signed by the said in the Presence of .

*Directors.*

(52.) The Number of the Directors, and the Names of the First Directors, shall be determined by the Subscribers of the Memorandum of Association.

(53.) Until Directors are appointed the Subscribers of the Memorandum of Association shall be deemed to be Directors.

(54.) The future Remuneration of the Directors, and their Remuneration for Services performed previously to the First General Meeting, shall be determined by the Company in General Meeting.

*Powers of Directors.*

(55.) The Business of the Company shall be managed by the Directors, who may pay all Expenses incurred in getting up and registering the Company, and may exercise all such Powers of the Company as are not by the foregoing Act, or by these Articles, required to be exercised by the Company in General Meeting, subject nevertheless to any Regulations of these Articles, to the Provisions of the foregoing Act, and to such Regulations, being not inconsistent with the aforesaid Regulations or Provisions, as may be prescribed by the Company in General Meeting; but no Regulation made by the Company in General Meeting shall invalidate any prior Act of the Directors which would have been valid if such Regulation had not been made.

(56.) The continuing Directors may act notwithstanding any Vacancy in their Body.

*Disqualification of Directors.*

(57.) The Office of Director shall be vacated,—

If he holds any other Office or Place of Profit under the Company:

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the Profits of any Contract with the Company;

But the above Rules shall be subject to the following Exceptions: That no Director shall vacate his Office by reason of his being a Member of any Company which has entered into Contracts with or done any Work for the Company of which he is Director; nevertheless he shall not vote in respect of such Contract or Work; and if he does so vote his Vote shall not be counted.

*Rotation of Directors.*

(58.) At the First Ordinary Meeting after the Registration of the Company the whole of the Directors shall retire from Office; and at the First Ordinary Meeting in every subsequent Year One Third of the Directors for the Time being, or if their Number is not a Multiple of Three, then the Number nearest to One Third, shall retire from Office.

(59.) The One Third or other nearest Number to retire during the First and Second Years ensuing the First Ordinary Meeting of the Company shall, unless the Directors agree among themselves, be determined by Ballot:

Ballot: In every subsequent Year the One Third or other nearest Number who have been longest in Office shall retire.

(60.) A retiring Director shall be re-eligible.

(61.) The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated Offices by electing a like Number of Persons.

(62.) If at any Meeting at which an Election of Directors ought to take place the Places of the vacating Directors are not filled up, the Meeting shall stand adjourned till the same Day in the next Week, at the same Time and Place; and if at such adjourned Meeting the Places of the vacating Directors are not filled up, the vacating Directors, or such of them as have not had their Places filled up, shall continue in Office until the Ordinary Meeting in the next Year, and so on from Time to Time until their Places are filled up.

(63.) The Company may from Time to Time, in General Meeting, increase or reduce the Number of Directors, and may also determine in what Rotation such increased or reduced Number is to go out of Office.

(64.) Any casual Vacancy occurring in the Board of Directors may be filled up by the Directors, but any Person so chosen shall retain his Office so long only as the vacating Director would have retained the same if no Vacancy had occurred.

(65.) The Company, in General Meeting, may, by a special Resolution, remove any Director before the Expiration of his Period of Office, and may by an ordinary Resolution appoint another Person in his Stead: The Person so appointed shall hold Office during such Time only as the Director in whose Place he is appointed would have held the same if he had not been removed.

*Proceedings of Directors.*

(66.) The Directors may meet together for the Despatch of Business, adjourn, and otherwise regulate their Meetings as they think fit, and determine the Quorum necessary for the Transaction of Business: Questions arising at any Meeting shall be decided by a Majority of Votes: In case of an Equality of Votes the Chairman shall have a Second or Casting Vote: A Director may at any Time summon a Meeting of the Directors.

(67.) The Directors may elect a Chairman of their Meetings, and determine the Period for which he is to hold Office; but if no such Chairman is elected, or if at any Meeting the Chairman is not present at the Time appointed for holding the same, the Directors present shall choose some One of their Number to be Chairman of such Meeting.

(68.) The Directors may delegate any of their Powers to Committees consisting of such Member or Members of their Body as they think fit: any Committee so formed shall, in the Exercise of the Powers so delegated, conform to any Regulations that may be imposed on them by the Directors.

(69.) A Committee may elect a Chairman of their Meetings: If no such Chairman is elected, or if he is not present at the Time appointed for holding the same, the Members present shall choose One of their Number to be Chairman of such Meeting.

(70.) A Committee may meet and adjourn as they think proper: Questions arising at any Meeting shall be determined by a Majority of Votes of the Members present; and in case of an Equality of Votes the Chairman shall have a Second or Casting Vote.

(71.) All Acts done by any Meeting of the Directors, or of a Committee of Directors, or by any Person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some Defect in the Appointment of any such Directors or Persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Director.

*Dividends.*

(72.) The Directors may, with the Sanction of the Company in General Meeting, declare a Dividend to be paid to the Members in proportion to their Shares.

(73.) No Dividend shall be payable except out of the Profits arising from the Business of the Company.

(74.) The Directors may, before recommending any Dividend, set aside out of the Profits of the Company such Sum as they think proper as a reserved Fund to meet Contingencies, or for equalizing Dividends, or for repairing or maintaining the Works connected with the Business of the Company, or any Part thereof; and the Directors may invest the Sum so set apart as a reserved Fund upon such Securities as they may select.

(75.) The Directors may deduct from the Dividends payable to any Member all such Sums of Money as may be due from him to the Company on account of Calls or otherwise.

(76.) Notice of any Dividend that may have been declared shall be given to each Member in manner herein-after mentioned; and all Dividends unclaimed for Three Years, after having been declared, may be forfeited by the Directors for the Benefit of the Company.

(77.) No Dividend shall bear Interest as against the Company.

*Accounts.*

(78.) The Directors shall cause true Accounts to be kept,—

Of the Stock in Trade of the Company;

Of the Sums of Money received and expended by the Company, and the Matter in respect of which such Receipt and Expenditure takes place; and,

Of the Credits and Liabilities of the Company:

The Books of Account shall be kept at the registered Office of the Company, and, subject to any reasonable Restrictions as to the Time and Manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the Inspection of the Members during the Hours of Business:

(79.) Once

(79.) Once at the least in every Year the Directors shall lay before the Company in General Meeting a Statement of the Income and Expenditure for the past Year, made up to a Date not more than Three Months before such Meeting.

(80.) The Statement so made shall show, arranged under the most convenient Heads, the Amount of gross Income, distinguishing the several Sources from which it has been derived, and the Amount of gross Expenditure, distinguishing the Expense of the Establishment, Salaries, and other like Matters: Every Item of Expenditure fairly chargeable against the Year's Income shall be brought into Account so that a just Balance of Profit and Loss may be laid before the Meeting; and in Cases where any Item of Expenditure which may in Fairness be distributed over several Years has been incurred in any One Year the whole Amount of such Item shall be stated, with the Addition of the Reasons why only a Portion of such Expenditure is charged against the Income of the Year.

(81.) A Balance Sheet shall be made out in every Year, and laid before the Company in General Meeting, and such Balance Sheet shall contain a Summary of the Property and Liabilities of the Company arranged under the Heads appearing in the Form annexed to this Table, or as near thereto as Circumstances admit.

(82.) A printed Copy of such Balance Sheet shall, Seven Days previously to such Meeting, be served on every Member in the Manner in which Notices are herein-after directed to be served.

*Audit.*

(83.) Once at the least in every Year the Accounts of the Company shall be examined, and the Correctness of the Balance Sheet ascertained, by One or more Auditor or Auditors.

(84.) The First Auditors shall be appointed by the Directors: Subsequent Auditors shall be appointed by the Company in General Meeting.

(85.) If One Auditor only is appointed, all the Provisions herein contained relating to Auditors shall apply to him.

(86.) The Auditors may be Members of the Company; but no Person is eligible as an Auditor who is interested otherwise than as a Member in any Transaction of the Company; and no Director or other Officer of the Company is eligible during his Continuance in Office.

(87.) The Election of Auditors shall be made by the Company at their Ordinary Meeting in each Year.

(88.) The Remuneration of the First Auditors shall be fixed by the Directors; that of subsequent Auditors shall be fixed by the Company in General Meeting.

(89.) Any Auditor shall be re-eligible on his quitting Office.

(90.) If any casual Vacancy occurs in the Office of any Auditor appointed by the Company, the Directors shall forthwith call an Extraordinary General Meeting for the Purpose of supplying the same.

(91.) If no Election of Auditors is made in manner aforesaid the Board of Trade may, on the Application of not less than Five Members of the Company, appoint an Auditor for the current Year,

and fix the Remuneration to be paid to him by the Company for his Services.

(92.) Every Auditor shall be supplied with a Copy of the Balance Sheet, and it shall be his Duty to examine the same, with the Accounts and Vouchers relating thereto.

(93.) Every Auditor shall have a List delivered to him of all Books kept by the Company, and shall at all reasonable Times have Access to the Books and Accounts of the Company: He may, at the Expense of the Company, employ Accountants or other Persons to assist him in investigating such Accounts, and he may in relation to such Accounts examine the Directors or any other Officer of the Company.

(94.) The Auditors shall make a Report to the Members upon the Balance Sheet and Accounts, and in every such Report they shall state whether, in their Opinion, the Balance Sheet is a full and fair Balance Sheet, containing the Particulars required by these Regulations, and properly drawn up so as to exhibit a true and correct View of the State of the Company's Affairs, and in case they have called for Explanations or Information from the Directors, whether such Explanations or Information have been given by the Directors, and whether they have been satisfactory; and such Report shall be read, together with the Report of the Directors, at the Ordinary Meeting.

*Notices.*

(95.) A Notice may be served by the Company upon any Member either personally, or by sending it through the Post in a prepaid Letter addressed to such Member at his registered Place of Abode.

(96.) All Notices directed to be given to the Members shall, with respect to any Share to which Persons are jointly entitled, be given to whichever of such Persons is named first in the Register of Members; and Notice so given shall be sufficient Notice to all the Holders of such Share.

(97.) Any Notice, if served by Post, shall be deemed to have been served at the Time when the Letter containing the same would be delivered in the ordinary Course of the Post; and in proving such Service it shall be sufficient to prove that the Letter containing the Notices was properly addressed and put into the Post Office.

Dr. BALANCE SHEET of the Co. made up to 18 . Cr.

| CAPITAL AND LIABILITIES. | | | £ s. d. | £ s. d. | PROPERTY AND ASSETS. | | | £ s. d. | £ s. d. |
|---|---|---|---|---|---|---|---|---|---|
| I. Capital - | | *Showing:* | | | III. Property held by the Company - | | *Showing:* | | |
| | 1. | *The Number of Shares* - - | | | | 7. | *Immovable Property, distinguishing* - | | |
| | 2. | *The Amount paid per Share* - - | | | | | *(a.) Freehold Land* - - | | |
| | 3. | *If any Arrears of Calls, the Nature of the Arrear, and the Names of the Defaulters.* | | | | | *(b.) " Buildings* - - | | |
| | | | | | | | *(c.) Leasehold " -* - | | |
| | 4. | *The Particulars of any forfeited Shares.* | | | | 8. | *Movable Property, distinguishing* - | | |
| | | *Showing:* | | | | | *(d.) Stock in Trade* - - | | |
| II. Debts and Liabilities of the Company - | 5. | *The Amount of Loans on Mortgages or Debenture Bonds.* | | | | | *(e.) Plant* - - - | | |
| | 6. | *The Amount of Debts owing by the Company, distinguishing—* | | | | | *The Cost to be stated with Deductions for Deterioration in Value as charged to the Reserve Fund or Profit and Loss.* | | |
| | | *(a.) Debts for which Acceptances have been given.* | | | IV. Debts owing to the Company - | | *Showing:* | | |
| | | *(b.) Debts to Tradesmen for Supplies of Stock in Trade or other Articles.* | | | | 9. | *Debts considered good for which the Company hold Bills or other Securities.* | | |
| | | *(c.) Debts for Law Expenses.* | | | | 10. | *Debts considered good for which the Company hold no Security.* | | |
| | | *(d.) Debts for Interest on Debentures or other Loans.* | | | | 11. | *Debts considered doubtful and bad* - | | |
| | | *(e.) Unclaimed Dividends.* | | | | | *Any Debt due from a Director or other Officer of the Company to be separately stated.* | | |
| | | *(f.) Debts not enumerated above* | | | | | | | |
| VI. Reserve Fund - | | *Showing:* *The Amount set aside from Profits to meet Contingencies.* | | | V. Cash and Investments | | *Showing:* | | |
| | | | | | | 12. | *The Nature of Investment and Rate of Interest.* | | |
| VII. Profit and Loss - | | *Showing:* *The disposable Balance for Payment of Dividend, &c.* | | | | 13. | *The Amount of Cash, where lodged, and if bearing Interest.* | | |
| Contingent Liabilities | | *Claims against the Company not acknowledged as Debts.* *Monies for which the Company is contingently liable.* | | | | | | | |

TABLE B.

TABLE OF FEES to be paid to the REGISTRAR of JOINT STOCK COMPANIES by a Company having a Capital divided into Shares.

| | £ | s. | d. |
|---|---|---|---|
| For Registration of a Company whose nominal Capital does not exceed 2,000*l.*, a Fee of - - -

| | £ | s. | d. |
|---|---|---|---|
| 5*s.* for every 50 Members or less Number than 50 Members after the first 100. | | | |
| For Registration of a Company in which the Number of Members is stated in the Articles of Association to be unlimited, a Fee of - | 20 | 0 | 0 |
| For Registration of any Increase on the Number of Members made after the Registration of the Company in respect of every 50 Members, or less than 50 Members, of such Increase - - | 0 | 5 | 0 |
| Provided that no One Company shall be liable to pay on the whole a greater Fee than 20*l.* in respect of its Number of Members, taking into account the Fee paid on the First Registration of the Company. | | | |
| For Registration of any existing Company, except such Companies as are by this Act exempted from Payment of Fees in respect of Registration under this Act, the same Fee as is charged for registering a new Company. | | | |
| For registering any Document hereby required or authorized to be registered, other than the Memorandum of Association - - | 0 | 5 | 0 |
| For making a Record of any Fact hereby authorized or required to be recorded by the Registrar of Companies, a Fee of - - | 0 | 5 | 0 |

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FORM D.

FORM OF STATEMENT referred to in Part III of the Act.

* The Capital of the Company is , divided into Shares of each.

The Number of Shares issued is

Calls to the Amount of Pounds per Share have been made, under which the Sum of Pounds has been received.

The Liabilities of the Company on the First Day of January (*or* July) were,—

~~Debts owing to sundry Persons by the Company:~~

On Judgment, £

On Specialty, £

On Notes or Bills, £

On Simple Contracts, £

On estimated Liabilities, £

The Assets of the Company on that Day were,—

Government Securities [*stating them*], £

Bills of Exchange and Promissory Notes, £

Cash at the Bankers, £

Other Securities, £

* If the Company has no Capital divided into Shares the Portion of the Statement relating to Capital and Shares must be omitted

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## SECOND SCHEDULE.

### FORM A.

MEMORANDUM of ASSOCIATION of a Company limited by Shares.

1st. The Name of the Company is "The Eastern Steam Packet Company, "Limited."

2d. The registered Office of the Company will be situate in England.

3d. The Objects for which the Company is established are, "the Convey- "ance of Passengers and Goods in Ships or Boats between such Places as the "Company may from Time to Time determine, and the doing all such other "Things as are incidental or conducive to the Attainment of the above "Object."

4th. The Liability of the Members is limited.

5th. The Capital of the Company is Two hundred thousand Pounds, divided into One thousand Shares of Two hundred Pounds each.

WE, the several Persons whose Names and Addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the Number of Shares in the Capital of the Company set opposite our respective Names.

| Names, Addresses, and Descriptions of Subscribers. | | | Number of Shares taken by each Subscriber. |
|---|---|---|---|
| "1. John Jones of | in the County of | Merchant | 200 |
| "2. John Smith of | in the County of | - - | 25 |
| "3. Thomas Green of | in the County of | - - | 30 |
| "4. John Thompson of | in the County of | - - | 40 |
| "5. Caleb White of | in the County of | - - | 15 |
| "6. Andrew Brown of | in the County of | - - | 5 |
| "7. Cæsar White of | in the County of | - - | 10 |
| | Total Shares taken | - - - | 325 |

Dated the 22d Day of November 1861.

Witness to the above Signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

### FORM B.

MEMORANDUM and ARTICLES of ASSOCIATION of a Company limited by Guarantee, and not having a Capital divided into Shares.

*Memorandum of Association.*

1st. The Name of the Company is "The Mutual London Marine Association, "Limited."

2d. The registered Office of the Company will be situate in England.

3d. The Objects for which the Company is established are, "the mutual "Insurance of Ships belonging to Members of the Company, and the doing "all such other Things as are incidental or conducive to the Attainment of "the above Objects."

4th. Every Member of the Company undertakes to contribute to the Assets of the Company in the event of the same being wound up during the Time that he is a Member, or within One Year afterwards, for Payment of the Debts and Liabilities of the Company contracted before the Time at which he ceases to be a Member, and the Costs, Charges, and Expenses of winding up the same, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required not exceeding Ten Pounds.

We, the several Persons whose Names and Addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

" 1. John Jones of in the County of Merchant.
" 2. John Smith of in the County of
" 3. Thomas Green of in the County of
" 4. John Thompson of in the County of
" 5. Caleb White of in the County of
" 6. Andrew Brown of in the County of
" 7. Cæsar White of in the County of

Dated the 22d Day of November 1861.

Witness to the above Signatures,
A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

---

ARTICLES of ASSOCIATION to accompany preceding MEMORANDUM of ASSOCIATION.

(1.) The Company, for the Purpose of Registration, is declared to consist of Five hundred Members.

(2.) The Directors herein-after mentioned may, whenever the Business of the Association requires it, register an Increase of Members.

*Definition of Members.*

(3.) Every Person shall be deemed to have agreed to become a Member of the Company who insures any Ship or Share in a Ship in pursuance of the Regulations herein-after contained.

*General Meetings.*

(4.) The First General Meeting shall be held at such Time, not being more than Three Months after the Incorporation of the Company, and at such Place, as the Directors may determine.

(5.) Subsequent General Meetings shall be held at such Time and Place as may be prescribed by the Company in General Meeting; and if no other Time or Place is prescribed, a General Meeting shall be held on the First Monday in February in every Year, at such Place as may be determined by the Directors.

(6.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(7.) The Directors may, whenever they think fit, and they shall, upon a Requisition made in Writing by any Five or more Members, convene an Extraordinary General Meeting.

(8.) Any Requisition made by the Members shall express the Object of the Meeting proposed to be called, and shall be left at the registered Office of the Company.

(9.) Upon the Receipt of such Requisition the Directors shall forthwith proceed to convene a General Meeting: If they do not proceed to convene the same within Twenty-one Days from the Date of the Requisition, the Requisitionists, or any other Five Members, may themselves convene a Meeting.

*Proceedings at General Meetings.*

(10.) Seven Days Notice at the least, specifying the Place, the Day and the Hour of Meeting, and in case of special Business the general Nature of such Business, shall be given to the Members in manner herein-after mentioned, or in such other Manner, if any, as may be prescribed by the Company in General Meeting; but the Non-receipt of such Notice by any Member shall not invalidate the Proceedings at any General Meeting.

(11.) All Business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the Exception of the Consideration of the Accounts, Balance Sheets, and the ordinary Report of the Directors.

(12.) No Business shall be transacted at any Meeting except the Declaration of a Dividend, unless a Quorum of Members is present at the Commencement of such Business; and such Quorum shall be ascertained as follows; that is to say, if the Members of the Company at the Time of the Meeting do not exceed Ten in Number, the Quorum shall be Five; if they exceed Ten there shall be added to the above Quorum One for every Five additional Members up to Fifty, and One for every Ten additional Members after Fifty, with this Limitation, that no Quorum shall in any Case exceed Thirty.

(13.) If within One Hour from the Time appointed for the Meeting a Quorum of Members is not present, the Meeting, if convened upon the Requisition of the Members, shall be dissolved: In any other Case it shall stand adjourned to the same Day in the following Week at the same Time and Place; and if at such adjourned Meeting a Quorum of Members is not present, it shall be adjourned sine die.

(14.) The Chairman (if any) of the Directors shall preside as Chairman at every General Meeting of the Company.

(15.) If there is no such Chairman, or if at any Meeting he is not present at the Time of holding the same, the Members present shall choose some One of their Number to be Chairman of such Meeting.

(16.) The Chairman may, with the Consent of the Meeting, adjourn any Meeting from Time to Time and from Place to Place, but no Business shall be transacted at any adjourned Meeting other than the Business left unfinished at the Meeting from which the Adjournment took place.

(17.) At any General Meeting, unless a Poll is demanded by at least Five Members, a Declaration by the Chairman that a Resolution has been carried, and an Entry to that Effect in the Book of Proceedings of the Company,

Company, shall be sufficient Evidence of the Fact, without Proof of the Number or Proportion of the Votes recorded in favour of or against such Resolution.

(18.) If a Poll is demanded in manner aforesaid, the same shall be taken in such Manner as the Chairman directs, and the Result of such Poll shall be deemed to be the Resolution of the Company in General Meeting.

*Votes of Members.*

(19.) Every Member shall have One Vote and no more.

(20.) If any Member is a Lunatic or Idiot he may vote by his Committee, Curator bonis, or other legal Curator.

(21.) No Member shall be entitled to vote at any Meeting unless all Moneys due from him to the Company have been paid.

(22.) Votes may be given either personally or by Proxies: A Proxy shall be appointed in Writing under the Hand of the Appointor, or if such Appointor is a Corporation, under its Common Seal.

(23.) No Person shall be appointed a Proxy who is not a Member, and the Instrument appointing him shall be deposited at the registered Office of the Company not less than Forty-eight Hours before the Time of holding the Meeting at which he proposes to vote.

(24.) Any Instrument appointing a Proxy shall be in the following Form:—

Company Limited.

I of in the County of being a Member of the Company Limited, hereby appoint of as my Proxy, to vote for me and on my Behalf at the [Ordinary *or* Extraordinary, *as the Case may be*] General Meeting of the Company to be held on the Day of , and at any Adjournment thereof to be held on the Day of next [*or*, at any Meeting of the Company that may be held in the Year ].

As witness my Hand, this Day of .

Signed by the said in the Presence of .

*Directors.*

(25.) The Number of the Directors, and the Names of the First Directors, shall be determined by the Subscribers of the Memorandum of Association.

(26.) Until Directors are appointed, the Subscribers of the Memorandum of Association shall for all the Purposes of this Act be deemed to be Directors.

*Powers of Directors.*

(27.) The Business of the Company shall be managed by the Directors, who may exercise all such Powers of the Company as are not hereby required to be exercised by the Company in General Meeting; but no Regulation made by the Company in General Meeting shall invalidate any prior Act of the Directors which would have been valid if such Regulation had not been made.

*Election of Directors.*

(28.) The Directors shall be elected annually by the Company in General Meeting.

*Business of Company.*

[*Here insert Rules as to Mode in which Business of Insurance is to be conducted.*]

*Accounts.*

(29.) The Accounts of the Company shall be audited by a Committee of Five Members, to be called the Audit Committee.

(30.) The first Audit Committee shall be nominated by the Directors out of the Body of Members.

(31.) Subsequent Audit Committees shall be nominated by the Members at the Ordinary General Meeting in each Year.

(32.) The Audit Committee shall be supplied with a Copy of the Balance Sheet, and it shall be their Duty to examine the same with the Accounts and Vouchers relating thereto.

(33.) The Audit Committee shall have a List delivered to them of all Books kept by the Company, and they shall at all reasonable Times have Access to the Books and Accounts of the Company: They may, at the Expense of the Company, employ Accountants or other Persons to assist them in investigating such Accounts, and they may in relation to such Accounts examine the Directors or any other Officer of the Company.

(34.) The Audit Committee shall make a Report to the Members upon the Balance Sheet and Accounts, and in every such Report they shall state whether in their Opinion the Balance Sheet is a full and fair Balance Sheet, containing the Particulars required by these Regulations of the Company, and properly drawn up, so as to exhibit a true and correct View of the State of the Company's Affairs, and in case they have called for Explanation or Information from the Directors, whether such Explanations or Information have been given by the Directors, and whether they have been satisfactory, and such Report shall be read together with the Report of the Directors at the Ordinary Meeting.

*Notices.*

(35.) A Notice may be served by the Company upon any Member either personally, or by sending it through the Post in a prepaid Letter addressed to such Member at his registered Place of Abode.

(36.) Any Notice, if served by Post, shall be deemed to have been served at the Time when the Letter containing the same would be delivered in the ordinary Course of the Post; and in proving such Service it shall be sufficient to prove that the Letter containing the Notice was properly addressed, and put into the Post Office.

*Winding up.*

(37.) The Company shall be wound up voluntarily whenever an Extraordinary Resolution, as defined by the Companies Act, 1862, is passed, requiring the Company to be wound up voluntarily.

Names,

Names, Addresses, and Descriptions of Subscribers.

| | | |
|---|---|---|
| " 1. John Jones of | in the County of | Merchant. |
| " 2. John Smith of | in the County of | |
| " 3. Thomas Green of | in the County of | |
| " 4. John Thompson of | in the County of | |
| " 5. Caleb White of | in the County of | |
| " 6. Andrew Brown of | in the County of | |
| " 7. Cæsar White of | in the County of | |

Dated the 22d Day of November 1861.

Witness to the above Signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

## FORM C.

MEMORANDUM and ARTICLES of ASSOCIATION of a Company limited by Guarantee, and having a Capital divided into Shares.

*Memorandum of Association.*

1st. The Name of the Company is "The Highland Hotel Company, " Limited."

2d. The registered Office of the Company will be situate in Scotland.

3d. The Objects for which the Company is established are "the facilitating " travelling in the Highlands of Scotland, by providing Hotels and Convey- " ances by Sea and by Land, for the Accommodation of Travellers, and the " doing all such other Things as are incidental or conducive to the Attain- " ment of the above Object."

4th. Every Member of the Company undertakes to contribute to the Assets of the Company in the event of the same being wound up during the Time that he is a Member, or within One Year afterwards, for Payment of the Debts and Liabilities of the Company contracted before the Time at which he ceases to be a Member, and the Costs, Charges, and Expenses of winding up the same, and for the Adjustment of the Rights of the Contributories amongst themselves, such Amount as may be required not exceeding Twenty Pounds.

WE, the several Persons whose Names and Addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

| | | |
|---|---|---|
| " 1. John Jones of | in the County of | Merchant. |
| " 2. John Smith of | in the County of | |
| " 3. Thomas Green of | in the County of | |
| " 4. John Thompson of | in the County of | |
| " 5. Caleb White of | in the County of | |
| " 6. Andrew Brown of | in the County of | |
| " 7. Cæsar White of | in the County of | |

Dated the 22d Day of November 1861.

Witness to the above Signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

*Articles of Association to accompany preceding Memorandum of Association.*

1. The Capital of the Company shall consist of Five hundred thousand Pounds, divided into Five thousand Shares of One hundred Pounds each.

2. The Directors may, with the Sanction of the Company in General Meeting, reduce the Amount of Shares.

3. The Directors may, with the Sanction of the Company in General Meeting, cancel any Shares belonging to the Company.

4. All the Articles of Table A. shall be deemed to be incorporated with these Articles, and to apply to the Company.

WE, the several Persons whose Names and Addresses are subscribed, agree to take the Number of Shares in the Capital of the Company set opposite our respective Names.

| Names, Addresses, and Descriptions of Subscribers. | Number of Shares taken by each Subscriber. |
|---|---|
| " 1. John Jones of in the County of - | 200 |
| " 2. John Smith of in the County of - | 25 |
| " 3. Thomas Green of in the County of - | 30 |
| " 4. John Thompson of in the County of - | 40 |
| " 5. Caleb White of in the County of - | 15 |
| " 6. Andrew Brown of in the County of - | 5 |
| " 7. Cæsar White of in the County of - | 10 |
| Total Shares taken - - - | 325 |

Dated the 22d Day of November 1861.

Witness to the above Signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

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FORM D.

MEMORANDUM and ARTICLES of ASSOCIATION of an unlimited Company, having a Capital divided into Shares.

*Memorandum of Association.*

1st. The Name of the Company is " The Patent Stereotype Company."

2d. The registered Office of the Company will be situate in England.

3d. The Objects for which the Company is established are " the working of " a Patent Method of founding and casting Stereotype Plates, of which Method " John Smith, of London, is the sole Patentee."

WE, the several Persons whose Names are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names,

Names, Addresses, and Descriptions of Subscribers.

| | | |
|---|---|---|
| " 1. John Jones of | in the County of | Merchant. |
| " 2. John Smith of | in the County of | |
| " 3. Thomas Green of | in the County of | |
| " 4. John Thompson of | in the County of | |
| " 5. Caleb White of | in the County of | |
| " 6. Andrew Brown of | in the County of | |
| " 7. Abel Brown of | in the County of | |

Dated 22d Day of November 1861.

Witness to the above Signatures,
A.B., No. 20, Bond Street, Middlesex.

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*Articles of Association to accompany the preceding Memorandum of Association.*

Capital of the Company.

The Capital of the Company is Two thousand Pounds, divided into Twenty Shares of One hundred Pounds each.

Application of Table A.

All the Articles of Table A. shall be deemed to be incorporated with these Articles, and to apply to the Company.

WE, the several Persons whose Names and Addresses are subscribed, agree to take the Number of Shares in the Capital of the Company set opposite our respective Names.

| Names, Addresses, and Descriptions of Subscribers. | | | Number of Shares taken by Subscribers. |
|---|---|---|---|
| " 1. John Jones of | in the County of | Merchant | 1 |
| " 2. John Smith of | in the County of | - | 5 |
| " 3. Thomas Green of | in the County of | - | 2 |
| " 4. John Thompson of | in the County of | - | 2 |
| " 5. Caleb White of | in the County of | - | 3 |
| " 6. Andrew Brown of | in the County of | - | 4 |
| " 7. Abel Brown of | in the County of | - | 1 |
| Total Shares taken - - - | | | 18 |

Dated the 22d Day of November 1861.

Witness to the above Signatures,
A.B., No. 20, Bond-street, Middlesex.

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## FORM E. as required by the Second Part of the Act.

SUMMARY of CAPITAL and SHARES of the COMPANY, made up to the Day of

Nominal Capital £ divided into Shares of £ each.
Number of Shares taken up to the Day of
There has been called up on each Share £
Total Amount of Calls received £
Total Amount of Calls unpaid £

LIST of Persons holding Shares in the Company on the Day of , and of Persons who have held Shares thereon at any Time during the Year immediately preceding the said Day of , showing their Names and Addresses, and an Account of the Shares so held.

| Folio in Register Ledger containing Particulars. | NAMES, ADDRESSES, AND OCCUPATIONS. | | | | ACCOUNT OF SHARES. | | | | | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|
| | Surname. | Christian Name. | Address. | Occupation. | Shares held by existing Members on the Day of | Additional Shares held by existing Members during preceding Year. | | Shares held by Persons no longer Members. | | |
| | | | | | | Number. | Date of Transfer. | Number. | Date of Transfer. | |
| | | | | | | | | | | |

FORM

FORM F.

LICENCE to hold LANDS.

The Lords of the Committee of Privy Council appointed for the Consideration of Matters relating to Trade and Foreign Plantations hereby license the . . . . . Association, Limited, to hold the Lands hereunder described [*insert Description of Lands*]. The Conditions of this Licence are [*insert Conditions, if any*].

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# THIRD SCHEDULE.

## FIRST PART.

| Date and Chapter of Act. | Title of Act. |
|---|---|
| 21 & 22 Geo. 3. c. 46. - (Parliament of Ireland.) | An Act to promote Trade and Manufactures by regulating and encouraging Partnerships. |
| 7 & 8 Vict. c. 110. - | An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies. |
| 7 & 8 Vict. c. 111. - | An Act for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements. |
| 7 & 8 Vict. c. 113. - | An Act to regulate Joint Stock Banks in England. |
| 8 & 9 Vict. c. 98. - | An Act for facilitating the winding up the Affairs of Joint Stock Companies in Ireland unable to meet their pecuniary Engagements. |
| 9 & 10 Vict. c. 28. - | An Act to facilitate the Dissolution of certain Railway Companies. |
| 9 & 10 Vict. c. 75. - | An Act to regulate Joint Stock Banks in Scotland and Ireland. |
| 10 & 11 Vict. c. 78. - | An Act to amend an Act for the Registration, Incorporation, and Regulation of Joint Stock Companies. |
| 11 & 12 Vict. c. 45. - | An Act to amend the Acts for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements, and also to facilitate the Dissolution and winding up of Joint Stock Companies and other Partnerships. |
| 12 & 13 Vict. c. 108. - | An Act to amend the Joint Stock Companies Winding-up Act, 1848. |
| 19 & 20 Vict. c. 47. - | An Act for the Incorporation and Regulation of Joint Stock Companies and other Associations. |
| 20 & 21 Vict. c. 14. - | An Act to amend the Joint Stock Companies Act, 1856. |
| 20 & 21 Vict. c. 49. - | An Act to amend the Law relating to Banking Companies. |
| 20 & 21 Vict. c. 78. - | An Act to amend the Act Seven and Eight Victoria, Chapter One hundred and eleven, for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements, and also the Joint Stock Companies Winding-up Acts, 1848 and 1849. |
| 20 & 21 Vict. c. 80. - | An Act to amend the Joint Stock Companies Act, 1856. |
| 21 & 22 Vict. c. 60. - | An Act to amend the Joint Stock Companies Acts, 1856 and 1857, and the Joint Stock Banking Companies Act, 1857. |
| 21 & 22 Vict. c. 91. - | An Act to enable Joint Stock Banking Companies to be formed on the Principle of Limited Liability. |

SECOND

## SECOND PART.

7 & 8 Vict. c. 113. s. 47.

Existing Companies to have the Powers of suing and being sued.

Every Company of more than Six Persons established on the Sixth Day of May One thousand eight hundred and forty-four, for the Purpose of carrying on the Trade or Business of Bankers within the Distance of Sixty-five Miles from London, and not within the Provisions of the Act passed in the Session holden in the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, shall have the same Powers and Privileges of suing and being sued in the Name of any One of the Public Officers of such Copartnership as the nominal Plaintiff, Petitioner, or Defendant on behalf of such Copartnership; and all Judgments, Decrees, and Orders made and obtained in any such Suit may be enforced in like Manner as is provided with respect to such Companies carrying on the said Trade or Business at any Place in England exceeding the Distance of Sixty-five Miles from London, under the Provisions of an Act passed in the Seventh Year of the Reign of King George the Fourth, Chapter Forty-six, intituled "An Act for the "better regulating Copartnerships of certain Bankers in England, and for "amending so much of an Act of the Thirty-ninth and Fortieth Years of the "Reign of His late Majesty King George the Third, intituled 'An Act for "'establishing an Agreement with the Governor and Company of the Bank "'of England for advancing the Sum of Three Millions towards the "'Supply for the Service of the Year One thousand eight hundred,' as "relates to the same," provided that such first-mentioned Company shall make out and deliver from Time to Time to the Commissioners of Stamps and Taxes the several Accounts or Returns required by the last-mentioned Act, and all the Provisions of the last-recited Act as to such Accounts or Returns shall be taken to apply to the Accounts or Returns so made out and delivered by such first-mentioned Companies as if they had been originally included in the Provisions of the last-recited Act.

20 & 21 Vict. c. 49., Part of Section XII.

Power to form Banking Partnerships of Ten Persons.

Notwithstanding anything contained in any Act passed in the Session holden in the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, and intituled "An Act to regulate Joint "Stock Banks in England," or in any other Act, it shall be lawful for any Number of Persons, not exceeding Ten, to carry on in Partnership the Business of Banking, in the same Manner and upon the same Conditions in all respects as any Company of not more than Six Persons could before the passing of this Act have carried on such Business.

# Companies, &c.

A

# B I L L

[AS AMENDED IN COMMITTEE]

For the Incorporation, Regulation, and Winding-up of Trading Companies and other Associations.

(*Prepared and brought in by Mr. Massey, The Solicitor General, and Mr. Milner Gibson.*)

[*Price* 1*s.* 1*d.*]

*Ordered, by* The House of Commons, *to be Printed*, 26 *May* 1862.

[Bill 137.]

*Under* 13 *oz.*

# LORDS AMENDMENTS

TO THE

# COMPANIES, &c. BILL.

NOTE.—*The Page and Line refer to the Bill* (132.) *as printed by the Lords.*

*Page* 16.

Line 32. Leave out from ("forwarded") to ("and") in Line 34.

*Page* 21.

Line 37. After ("Company") insert ("or Person")

*Page* 22.

Line 3. After ("Companies") insert ("and Persons")

*Page* 26.

Line 22. Leave out ("shall") and insert ("may")

Line 32. At End of Clause add ("if no Official Liquidator is "appointed, or during any Vacancy in such Appoint- "ment, all the Property of the Company shall be "deemed to be in the Custody of the Court")

*Page* 28.

Line 24. Leave out from ("others") to ("it") in Line 29.

*Page* 33.

Line 28. Leave out ("Courts respectively") and insert ("Court")

*Page* 40.

Line 41. Leave out from ("Manner") to ("or") in Line 42. and insert ("prescribed by the Regulations of the "Company")

*Page* 47.

Line 21. Leave out ("or") and insert ("Official or other "Liquidator or any")

Line 24. Leave out ("the Liquidators") and insert ("any "Liquidator")

*Page* 48.

Leave out Clause 169.

*Page* 49.

Line 14. Leave out from ("Company") to End of Clause.

*Page* 50.

Line 17. Leave out from ("Company") to End of Clause.

*Page* 60.

Line 19. After ("Company") insert ("except Railway Com- "panies incorporated by Act of Parliament")

*Page* 61.

Line 1. Leave out ("this Part of this Act") and insert ("the "winding-up of such Company")

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[Bill 243.]

# LORDS AMENDMENTS

TO THE

# COMPANIES, &c. BILL.

*Ordered, by* The House of Commons, *to be Printed*,
29 *July* 1862.

[Bill 243.]

*Under* 1 *oz.*

A

# BILL

INTITULED

## An Act to confirm certain Sales, Exchanges, Partitions, and Enfranchisements by Trustees and others.

WHEREAS Trustees and others, in the intended Exercise of Trusts or Powers authorizing them to dispose of Land by Sale, Exchange, Partition, or Enfranchisement, have disposed of Land subject to such Trusts or Powers, with an Exception or Reservation of Minerals, and either with or without Rights and Powers for or incidental to the working, getting, and carrying away of such Minerals, or otherwise relating thereto, or have so disposed of Minerals with or without such Rights and Powers separately from the Residue of the Land, such Mode of Disposition not being expressly authorized nor forbidden by the Instrument creating the Trust or Power: And whereas it is expedient to confirm such Dispositions as aforesaid: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. No Sale, Exchange, Partition, or Enfranchisement at any Time heretofore of Land by any Trustee or other Person, expressed or intended Powers of Sale, &c. not to be invalid on

the Ground of Want of express Mention of Exception of Reservation of Minerals, &c.

intended to be made in exercise of any Trust or Power authorizing the Sale, Exchange, Partition, or Enfranchisement of Land, and not forbidding the Reservation of Minerals, and which Sale, Exchange, Partition, or Enfranchisement shall have been made with an Exception or Reservation of Minerals, and with or without Rights or Powers for or incidental to the working, getting, and carrying away of such Minerals, or otherwise relating thereto, shall be invalid on the Ground only that the Trust or Power did not expressly authorize such Exception or Reservation, but such Sale, Exchange, Partition, or Enfranchisement shall be deemed to have taken effect in the same Manner as if the Exception or Reservation had been authorized by the Trust or Power; and no Sale, Exchange, or Partition heretofore made as aforesaid of any Minerals separately from the Residue of the Land subject to the Trust or Power intended to have been exercised, and either with or without such Rights or Powers as aforesaid, shall be invalid on the Ground only that the Trust or Power did not expressly authorize such Sale, Exchange, or Partition, but such Sale, Exchange, or Partition shall be deemed to have taken effect in the same Manner as if such Minerals, Rights, and Powers (if any) had been expressly authorized to be so dealt with separately from the Residue of such Land; but this Enactment shall not be deemed to confirm any Sale, Exchange, Partition, or Enfranchisement already declared by a Court of competent Jurisdiction to be invalid, nor to confirm or affect any Sale, Exchange, Partition, or Enfranchisement as to the Validity of which any Suit or other Proceeding is now pending.

Not to confirm Sales, &c. declared invalid, or pending.

Trustees may dispose of Land or Minerals separately, without the Residue, &c.

**2.** And whereas it is expedient that Trusts and Powers to dispose of Land by way of Sale, Exchange, Partition, or Enfranchisement should be extended in the Manner herein-after appearing:

Every Trustee and other Person now or hereafter to become authorized to dispose of Land by way of Sale, Exchange, Partition, or Enfranchisement may, unless forbidden by the Instrument creating the Trust or Power, so dispose of such Land with an Exception or Reservation of any Minerals, and with or without Rights and Powers of or incidental to the working, getting, or carrying away of such Minerals, or may (unless forbidden as aforesaid) dispose of by way of Sale, Exchange, or Partition the Minerals with or without such Rights or Powers separately from the Residue of the Land, and in either Case without Prejudice to any future Exercise of the Authority with respect to the excepted Minerals, or (as the Case may be) the undisposed-of Land; but this Enactment shall not enable any such Disposition as aforesaid without the previous Sanction of the Court of Chancery, to be obtained on Petition in a summary Way of the Trustee or other Person authorized as aforesaid, which Sanction once obtained shall extend to the enabling from Time to Time of any Disposition

Sanction of Court of Chancery requisite.

Disposition within this Enactment of any Part or Parts of the Land comprised in the Order to be made on such Petition, without the Necessity of any further or other Application to the Court.

**3.** This Act shall not extend to Ireland or Scotland. Extent of Act.

# Confirmation of Sales, &c.

A

# BILL

INTITULED

An Act to confirm certain Sales, Exchanges, Partitions, and Enfranchisements by Trustees and others.

(*Brought from the Lords* 29 *July* 1862.)

*Ordered, by* The House of Commons, *to be Printed,* 29 *July* 1862.

[Bill 246.]

*Under* 1 *oz.*

A

# BILL

TO

## Prohibit the Payment of the Expenses of conveying Voters to the Poll in Cities and Boroughs.

WHEREAS it is expedient to prohibit Candidates at Elections, and their Agents, from providing Conveyance for Voters for the Purpose of polling at any Election in any City or Borough: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** So much of the Twenty-first and Twenty-second Victoria, Chapter Eighty-seven, as enacts that it shall be lawful for any Candidate or his Agent to provide Conveyance for any Voter for the Purpose of polling at an Election in any City or Borough, shall be and is hereby repealed. Repeal of Part of 21 & 22 Vict. c. 87.

**2.** Every Candidate who shall directly or indirectly, by himself or by any other Person on his Behalf, and the Agent of any such Candidate who shall directly or indirectly, pay any Money or give any valuable Consideration, or agree to pay any Money or to give any valuable Candidates paying for the Conveyance of Voters guilty of Bribery.

valuable Consideration, to any Person, in respect of the Conveyance of any Voter for the Purpose of polling at an Election in any City or Borough, shall be deemed guilty of an Offence within the Meaning of the Second Section of the Seventeenth and Eighteenth Victoria, Chapter One hundred and two.

17 & 18 Vict. c. 102. s. 2.

Interpretation.

3. The last-mentioned Act and this Act shall be construed together as One Act.

Conveyance of Voters.

A

# BILL

To prohibit the Payment of the Expenses of conveying Voters to the Poll in Cities and Boroughs.

(*Prepared and brought in by Mr. Collier and Sir Charles Douglas.*)

*Ordered, by* The House of Commons, *to be Printed,* 11 *February* 1862.

[Bill 12.]

*Under* 1 *oz.*

A

# BILL

FOR

## Continuing the Copyhold, Inclosure, and Tithe Commission, and entitling the Commissioners to Superannuation Allowance.

WHEREAS in the Year One thousand eight hundred and thirty-six certain Persons were appointed Commissioners for the Purposes of carrying into effect the Act for the Commutation of Tithes in England and Wales, under the Title of "The Tithe Commissioners for England and Wales:" And whereas in the Year One thousand eight hundred and forty-one, by the Act of the Session of the Fifth and Sixth Years of Her present Majesty, Chapter Thirty-five, herein-after referred to as "the Copyhold Act," the Tithe Commissioners for the Time being were appointed Copyhold Commissioners for the Purposes of that Act; and it was thereby provided, that if the Duties of the Tithe Commissioners ceased before the Copyhold Act was fully carried into execution, it should be lawful for One of Her Majesty's Principal Secretaries of State to appoint any Number of fit Persons, not exceeding Three, to be Copyhold Commissioners: And whereas in the Year One thousand eight hundred and forty-five Provision was made for the Appointment of Two Persons who, with the First Commissioner of Her Majesty's Preamble.

Majesty's Woods, Forests, Land Revenues, Works, and Buildings, were to be the Commissioners for carrying that Act into execution, under the Style of the Inclosure Commissioners for England and Wales: And whereas in the Year One thousand eight hundred and fifty-one, by the Act of the Session holden in the Fourteenth and Fifteenth Years of Her present Majesty, Chapter Fifty-three, intituled "An Act to consolidate and continue the Copyhold and Inclosure "Commissioners, and to provide for the Completion of Proceedings "under the Tithe Commutation Acts," the Powers of Appointment of Commissioners and other Officers contained in the Copyhold Act were continued for a limited Time, and the Commissioners appointed thereunder were continued, but it was provided that all the Duties of the Inclosure Commissioners and all the unperformed Duties of the Tithe Commissioners should be performed by the Commissioners continued or appointed as aforesaid: And whereas, by certain Acts, and ultimately by an Act of the Session holden in the Twenty-third and Twenty-fourth Years of Her present Majesty, Chapter Eighty-one, the said Powers of appointing Commissioners and other Officers have been continued, and the Period limited for holding Office by the Commissioners and other Officers appointed aforesaid has been extended until the First Day of August One thousand eight hundred and sixty-one and thenceforth until the End of the next Session of Parliament: And whereas, under the above Acts and divers other Acts of Parliament, and in particular by the Land Drainage Act, One thousand eight hundred and sixty-one, divers Powers of a permanent Character relating to Drainage and the Management and Improvement of Estates have been imposed on the Commissioners continued or appointed as aforesaid: And whereas, notwithstanding the Length of Time that the said Commissioners have been established, the said Commissioners, including the resident Assistant Commissioner in charge of the Survey Department, are not deemed to be in the permanent Civil Service of the State, and consequently are not entitled to Superannuation Allowance in pursuance of "The Superannuation Act, 1859:" And whereas it is expedient that the Powers of Appointment contained in the Copyhold Act should be continued, and the Period limited by the said Act and the Acts for amending the same for the Tenure of Office by the Commissioners, should be extended in manner herein mentioned, and that the said Commissioners, including such resident Assistant Commissioner as aforesaid, should be deemed to be entitled to Superannuation Allowance: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

**1.** So

Continuation of Power of Appointment.

**1.** So much of the Copyhold Act as authorizes the Appointment of Commissioners and other Officers as therein mentioned shall be continued until the *First Day of August One thousand eight hundred and sixty-seven, and thenceforth until the End of the then next Session of Parliament*, and the Period limited for the holding of Office by the Commissioners and such other Officers as aforesaid shall in like Manner be extended until the *First Day of August One thousand eight hundred and sixty-seven, and thenceforth until the End of the next Session of Parliament.*

Superannuation of Officers.

**2.** The Commissioners acting in execution of the several Acts herein-before mentioned, including such resident Assistant Commissioner as aforesaid, shall, for the Purposes of the Superannuation Act, 1859, be deemed to have served in the permanent Civil Service of the State, and to have held their respective Appointments directly from the Crown.

# Copyhold, &c. Commission.

A

# BILL

For continuing the Copyhold, Inclosure, and Tithe Commission, and entitling the Commissioners to Superannuation Allowance.

(*Prepared and brought in by Mr. Clive and Sir George Grey.*)

*Ordered, by* The House of Commons, *to be Printed*, 16 *July* 1862.

[Bill 213.]

*Under* 1 *oz.*

# Copyright (Works of Art) Bill.

## ARRANGEMENT OF CLAUSES.

Copyright in Paintings, Drawings, and Photographs; Sect. 1.

Not to prevent the Representation of Scenes or Objects previously represented; 2.

Copyright Personal Property. Assignments and Licences, &c. to be in Writing; 3.

Penalties for infringing Copyright; 4.

Penalties on certain Frauds in the Production and Sale of Works of Fine Art, whether Copyright or not; 5.

Pecuniary Penalties how to be recovered; 6.

Importation of pirated Copies prohibited; such Copies to be seized at Customs; 7.

Saving of Action for Damages; 8.

A

# B I L L

FOR

## Amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

Preamble.

WHEREAS by Law, as now established, the Authors of Paintings, Drawings, and Photographs have no Copyright in such their Works, and it is expedient that the Law should in that respect be amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Copyright in Works hereafter made or sold to vest in the Author for his Life and Seven Years.

**1.** The Author of every Painting, Drawing, and Photograph which shall be made, or for the First Time sold or disposed of, either in the British Dominions or elsewhere, after the *Commencement of this Act*, and his Assigns, shall have the sole and exclusive Right of copying, reproducing, and multiplying such Painting, Drawing, or Photograph, and the Design thereof, by any Means and of any Size, for the Term of the natural Life of such Author, and *Seven* Years after his Death; provided that when any Painting or Drawing shall be for the First Time sold or disposed of after the *passing of this Act*, the Person so

so selling or disposing of the same shall not retain the Copyright thereof unless it be expressly reserved to him by Agreement in Writing, signed at or before the Time of such Sale or Disposition, by the Vendee or Assignee of such Painting or Drawing.

Copyright not to prevent the Representation of the same Subjects in other Works.

**2.** Nothing herein contained shall prejudice the Right of any Person to copy or use any Work of Fine Art in which there shall be no Copyright, or to represent any Scene or Object, notwithstanding that there may be Copyright in a Copy or Imitation previously made of such Work, or in some Representation of such Scene or Object.

Assignments, Licences, &c. to be in Writing.

**3.** All Copyright under this Act shall be deemed Personal or Moveable Estate, and shall be assignable at Law, and every Assignment thereof, and every Licence to use or copy by any Means or Process the Design or Work which shall be the Subject of such Copyright, shall be made by some Note or Memorandum in Writing, or by Indorsement in Writing upon some prior Instrument, to be signed by the Proprietor of the Copyright, or by his Agent appointed for that Purpose in Writing.

Penalties on Infringement of Copyright.

**4.** If the Author of any Painting, Drawing, or Photograph in which there shall be subsisting Copyright, after having sold or disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of Copyright in any Painting, Drawing, or Photograph, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply for Sale, Hire, Exhibition, or Distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or, knowing that any such Repetition, Copy, or other Imitation has been unlawfully made, shall import into any Part of the British Dominions, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be imported, sold, published, let to Hire, distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of the said Work, or of the Design thereof, or of any Part thereof, made without such Consent as aforesaid, such Person for every such Offence shall forfeit to the Proprietor of the Copyright for the Time being a Sum not exceeding *Ten Pounds;* and all such Repetitions, Copies, and Imitations made without such Consent as aforesaid, and all Negatives of Photographs and other Things which shall be exclusively applicable for obtaining such Copies, shall be forfeited to the Proprietor of the Copyright, who shall forthwith destroy the same.

**5.** No

**5.** No Person shall do or cause to be done any or either of the following Acts; that is to say, Penalties on fraudulent Productions and Sales.

First, no Person shall fraudulently sign or otherwise affix, or fraudulently authorize to be signed or otherwise affixed, any Name, Initials, or Monogram upon any Work of Fine Art:

Secondly, no Person shall fraudulently sell, publish, exhibit, or dispose of, or offer for Sale, Exhibition, or Distribution, any Work of Fine Art, having thereon the Name, Initials, or Monogram of a Person who did not execute or make such Work:

Thirdly, no Person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any Copy or colourable Imitation of any Work of Fine Art, whether there shall be subsisting Copyright therein or not, as having been made or executed by the Author or Maker of the original Work from which such Copy or Imitation shall have been taken:

Fourthly, where the Author or Maker of any Work of Fine Art, made either before or after the passing of this Act, shall have sold or otherwise parted with the Possession of such Work, if any Alteration shall afterwards be made therein by any other Person, by Addition or otherwise, no Person shall be at liberty, during the Life of the Author or Maker of such Work, without his Consent, to make or knowingly to sell or publish, or offer for Sale, such Work or any Copies of such Work so altered as aforesaid, or of any Part thereof, as or for the unaltered Work of such Author or Maker:

Every Offender under this Section shall, upon Conviction, forfeit to every Person aggrieved a Sum not exceeding *Ten Pounds*, or not exceeding *double* the full Price at which all such Copies, Engraving, or Imitations shall have been sold, published, or offered for Sale, Publication, or Exchange. Penalties.

**6.** All pecuniary Penalties which shall be incurred, and all such unlawful Copies, Imitations, and all other Effects and Things as shall have been forfeited by Offenders, pursuant to this Act, may be recovered by the Person herein-before empowered to recover the same respectively, and herein-after called the Complainant, or the Complainer, as follows: Recovery of pecuniary Penalties.

In England and Ireland, either by Action against the Party offending, or by summary Proceeding before Two or Three Justices having Jurisdiction where the Party offending resides: In England and Ireland.

In Scotland by Action before the Court of Session in ordinary Form, or by summary Action before the Sheriff of the County where the Offence may be committed or the Offender resides, who, upon Proof of the Offence or Offences, either by Confession In Scotland.

of the Party offending, or by the Oath or Affirmation of One or more credible Witnesses, shall convict the Offender, and find him liable to the Penalty or Penalties aforesaid, as also in Expenses, and it shall be lawful for the Sheriff, in pronouncing such Judgment for the Penalty or Penalties and Costs, to insert in such Judgment a Warrant, in the event of such Penalty or Penalties and Costs not being paid, to levy and recover the Amount of the same by Poinding: Provided always, that it shall be lawful to the Sheriff, in the event of his dismissing the Action and assoilzieing the Defender, to find the Complainer liable in Expenses, and any Judgment so to be pronounced by the Sheriff in such summary Application shall be final and conclusive, and not subject to Review by Advocation, Suspension, Reduction, or otherwise:

In other Parts of the British Dominions.

In any other Part of the British Dominions, by Action or Suit, or by summary Proceeding before any Court, Judge, Justices, or any Person having Judicial Authority, as nearly as may be in manner herein-before provided with respect to Actions and Proceedings in England and Ireland.

Importation of pirated Works prohibited.

**7.** All Repetitions, Copies, or Imitations of Works of Fine Art, wherein or in the Design whereof there shall be subsisting Copyright under this Act, and all Repetitions, Copies, and Imitations of the Design of such Work, or of any Part of such Work or Design, which, contrary to the Provisions of this Act, shall have been made in any Foreign State, or in any Part of the British Dominions, are hereby absolutely prohibited to be imported into any Part of the British Dominions, except by or with the Consent of the Proprietor of the Copyright thereof, or his Agent, authorized in Writing; and if imported contrary to this Prohibition, the same and the Importers thereof shall be subject to the Enactments in force relating to Goods prohibited to be imported by any Act for the Time being relating to the Customs.

Application in such Cases of Customs Acts.

Saving of Right to bring Action for Damages.

**8.** If the Author of any Work of Fine Art in which there shall be subsisting Copyright, after having sold or otherwise disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of such Copyright, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or any Part of such Work or Design, or shall import or cause to be imported into any Part of the British Dominions, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure

to

to be sold, published, let to Hire, exhibited, or distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of such Work, or the Design thereof, or of any Part of such Work or Design, made without such Consent as aforesaid, then every such Proprietor, in addition to the Remedies hereby given for the Recovery of any such Penalties, and Forfeiture of any such Things as aforesaid, may recover Damages by and in a Special Action on the Case, to be brought against the Person so offending, and may in such Action recover and enforce the Delivery to him of all unlawful Repetitions, Copies, and Imitations, or may recover Damages for the Retention or Conversion thereof: Provided that nothing herein contained, nor any Proceeding, Conviction, or Judgment, for any Act hereby forbidden, shall affect any Remedy which any Person aggrieved by such Act may be entitled to either at Law or in Equity.

# Copyright (Works of Art).

A

# BILL

For amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

(*Prepared and brought in by Mr. Massey, Mr. Solicitor General, and Mr. Attorney General.*)

*Ordered, by* The House of Commons, *to be Printed,* 27 *February* 1862.

[Bill 26.]

*Under* 1 *oz.*

# Copyright (Works of Art) Bill.

## ARRANGEMENT OF CLAUSES.


Copyright in Paintings, Drawings, and Photographs to vest in Author during Life and Seven Years; Sect. 1.

Not to prevent the Representation of Scenes or Objects previously represented; 2.

Copyright Personal Property. Assignments and Licences, &c. to be in Writing; 3.

Clause A.—Registers of Proprietors of such Copyright, to be kept at Stationers Hall; 4.

Clause B.—Certain Enactments of 6th Vict. to apply to said Registers; 5.

Penalties for infringing Copyright; 6.

Penalties on certain Frauds in the Production and Sale of Works of Fine Art, whether Copyright or not; 7.

Pecuniary Penalties how to be recovered; 8.

Clause C.—Superior Courts in Actions pending therein may make Orders for Injunctions, &c.; 9.

Importation of pirated Copies prohibited; such Copies to be seized at Customs; 10.

Saving of Action for Damages; 11.

A

# BILL

[AS AMENDED IN COMMITTEE]

FOR

## Amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

WHEREAS by Law, as now established, the Authors of Paintings, Drawings, and Photographs have no Copyright in such their Works, and it is expedient that the Law should in that respect be amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. The Author of every Painting, Drawing, and Photograph which shall be or shall have been made, either in the British Dominions or elsewhere, and which shall not have been sold or disposed of before the Commencement of this Act, and his Assigns, shall have the sole and exclusive Right of copying, reproducing, and multiplying such Painting or Drawing, and the Design thereof, or such Photograph, and the Negative thereof, by any Means and of any Size, for the Copyright in Works hereafter made or sold to vest in the Author for his Life and Seven Years.

Term of the natural Life of such Author, and Seven Years after his Death; provided that when any Painting or Drawing, or the Negative of any Photograph, shall be for the First Time sold or disposed of after the passing of this Act, the Person so selling or disposing of the same shall not retain the Copyright thereof, unless it be expressly reserved to him by Agreement in Writing, signed, at or before the Time of such Sale or Disposition, by the Vendee or Assignee of such Painting or Drawing, or of such Negation of a Photograph, nor shall the Vendee or Assignee thereof be entitled to any such Copyright, unless, at or before the Time of such Sale or Disposition, an Agreement in Writing, signed by the Person so selling or disposing of the same, or by his Agent duly authorized, shall have been made to that Effect.

Copyright not to prevent the Representation of the same Subjects in other Works.

**2.** Nothing herein contained shall prejudice the Right of any Person to copy or use any Work of Fine Art in which there shall be no Copyright, or to represent any Scene or Object, notwithstanding that there may be Copyright in a Copy or Imitation previously made of such Work, or in some Representation of such Scene or Object.

Assignments, Licences, &c. to be in Writing.

**3.** All Copyright under this Act shall be deemed Personal or Moveable Estate, and shall be assignable at Law, and every Assignment thereof, and every Licence to use or copy by any Means or Process the Design or Work which shall be the Subject of such Copyright, shall be made by some Note or Memorandum in Writing, to be signed by the Proprietor of the Copyright, or by his Agent appointed for that Purpose in Writing.

Clause A. Register of Proprietors of Copyright in Paintings, Drawings, and Photographs to be kept at Stationers Hall.

**4.** There shall be kept at the Hall of the Stationers Company, by the Officer appointed by the said Company for the Purposes of the Act passed in the Sixth Year of Her present Majesty, intituled "An Act to amend the Law of Copyright," a Book or Books, entitled "The Register of Proprietors of Copyright in Paintings, Drawings, "and Photographs," wherein shall be entered a Memorandum of every Agreement for the Acquisition or Reservation of Copyright made upon or before the Sale of any Work of Art under this Act, and also of every subsequent Assignment of any such Copyright; and such Memorandum shall contain a Statement of the Date of such Agreement or Assignment, and of the Names of the Parties thereto, and of the Name and Place of Abode of the Person in whom such Copyright shall be vested by virtue thereof, and of the Name and Place of Abode of the Author of the Work in which there shall be such Copyright, together with a short Description of the Nature and Subject of such Work; and unless such Memorandum shall be so registered within the Period of Twelve Months from

from the Date of such Agreement or Assignment every such Agreement or Assignment which shall not be so registered shall be void and of no Effect.

CLAUSE B. Certain Enactments of recited Act of the 6th Year of Victoria to apply to the Books to be kept under this Act.

**5.** The several Enactments in the said Act of the Sixth Year of Her present Majesty contained, with relation to keeping the Register Book thereby required, and the Inspection thereof, the Searches therein, and the Delivery of certified and stamped Copies thereof, the Reception of such Copies in Evidence, the making of false Entries in the said Book, and the Production in Evidence of Papers falsely purporting to be Copies of Entries in the said Book, the Application to the Courts and Judges by Persons aggrieved by Entries in the said Book, and the expunging and varying such Entries, shall apply to the Book or Books to be kept by virtue of this Act, and to the Entries and Assignments of Copyright and Proprietorship therein under this Act, in such and the same Manner as if such Enactments were here expressly enacted in relation thereto, save and except that the Forms of Entry prescribed by the said Act of the Sixth Year of Her present Majesty may be varied to meet the Circumstances of the Case, and that the Sum to be demanded by the Officer of the said Company of Stationers for making any Entry required by this Act shall be One Shilling only.

Penalties on Infringement of Copyright.

**6.** If the Author of any Painting, Drawing, or Photograph in which there shall be subsisting Copyright, after having sold or disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of Copyright in any Painting, Drawing, or Photograph, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply for Sale, Hire, Exhibition, or Distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or, knowing that any such Repetition, Copy, or other Imitation has been unlawfully made, shall import into any Part of the British Dominions, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be imported, sold, published, let to Hire, distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of the said Work, or of the Design thereof, made without such Consent as aforesaid, such Person for every such Offence shall forfeit to the Proprietor of the Copyright for the Time being a Sum not exceeding Ten Pounds; and all such Repetitions, Copies, and Imitations made without such Consent as aforesaid, and all Negatives of Photographs made for the Purpose of obtaining such Copies, shall be forfeited to the Proprietor of the Copyright.

Penalties on fraudulent Productions and Sales.

**7.** No Person shall do or cause to be done any or either of the following Acts; that is to say,

First, no Person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any Painting, Drawing, or Photograph, or the Negative thereof, any Name, Initials, or Monogram:

Secondly, no Person shall fraudulently sell, publish, exhibit, or dispose of, or offer for Sale, Exhibition, or Distribution, any Painting, Drawing, or Photograph, having thereon the Name, Initials, or Monogram of a Person who did not execute or make such Work:

Thirdly, no Person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any Copy or colourable Imitation of any Painting, Drawing, or Photograph, whether there shall be subsisting Copyright therein or not, as having been made or executed by the Author or Maker of the original Work from which such Copy or Imitation shall have been taken:

Fourthly, where the Author or Maker of any Painting, Drawing, or Photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the Possession of such Work, if any Alteration shall afterwards be made therein by any other Person, by Addition or otherwise, no Person shall be at liberty, during the Life of the Author or Maker of such Work, without his Consent, to make or knowingly to sell or publish, or offer for Sale, such Work or any Copies of such Work so altered as aforesaid, or of any Part thereof, as or for the unaltered Work of such Author or Maker:

Penalties.

Every Offender under this Section shall, upon Conviction, forfeit to the Person aggrieved a Sum not exceeding Ten Pounds, or not exceeding double the full Price, if any, at which all such Copies, Engravings, Imitations, or altered Works shall have been sold or offered for Sale; and all such Copies, Engravings, Imitations, or altered Works shall be forfeited to the Person, or the Assigns or legal Representatives of the Person, whose Name, Initials, or Monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered Work shall be so fraudulently or falsely ascribed as aforesaid: Provided always, that the Penalties imposed by this Section shall not be incurred unless the Person whose Name, Initials, or Monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered Work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within Twenty Years next before the Time when the Offence may have been committed.

**8.** All

Recovery of pecuniary Penalties.

**8.** All pecuniary Penalties which shall be incurred, and all such unlawful Copies, Imitations, and all other Effects and Things as shall have been forfeited by Offenders, pursuant to this Act, and pursuant to any Act for the Protection of Copyright Engravings, may be recovered by the Person herein-before and in any such Act as aforesaid empowered to recover the same respectively, and herein-after called the Complainant or the Complainer, as follows:

In England and Ireland.

In England and Ireland, either by Action against the Party offending, or by summary Proceeding before any Two Justices having Jurisdiction where the Party offending resides:

In Scotland.

In Scotland by Action before the Court of Session in ordinary Form, or by summary Action before the Sheriff of the County where the Offence may be committed or the Offender resides, who, upon Proof of the Offence or Offences, either by Confession of the Party offending, or by the Oath or Affirmation of One or more credible Witnesses, shall convict the Offender, and find him liable to the Penalty or Penalties aforesaid, as also in Expenses, and it shall be lawful for the Sheriff, in pronouncing such Judgment for the Penalty or Penalties and Costs, to insert in such Judgment a Warrant, in the event of such Penalty or Penalties and Costs not being paid, to levy and recover the Amount of the same by Poinding: Provided always, that it shall be lawful to the Sheriff, in the event of his dismissing the Action and assoilzieing the Defender, to find the Complainer liable in Expenses, and any Judgment so to be pronounced by the Sheriff in such summary Application shall be final and conclusive, and not subject to Review by Advocation, Suspension, Reduction, or otherwise:

In other Parts of the British Dominions.

In any other Part of the British Dominions, by Action or Suit, or by summary Proceeding before any Court, Judge, Justices, or any Person having Judicial Authority, as nearly as may be in manner herein-before provided with respect to Actions and Proceedings in England and Ireland.

Clause C. Superior Courts of Record in which any Action is pending may make an Order for an Injunction, Inspection, or Account.

**9.** In any Action in any of Her Majesty's Superior Courts of Record at Westminster and in Dublin, for the Infringement of any such Copyright as aforesaid, it shall be lawful for the Court in which such Action is pending, if the Court be then sitting, or if the Court be not sitting then for a Judge of such Court, on the Application of the Plaintiff or Defendant respectively, to make such Order for an Injunction, Inspection, or Account, and to give such Direction respecting such Action, Injunction, Inspection, and Account, and the Proceedings therein respectively, as to such Court or Judge may seem fit.

Importation of pirated Works prohibited.

**10.** All Repetitions, Copies, or Imitations of Paintings, Drawings, or Photographs, wherein or in the Design whereof there shall be subsisting Copyright under this Act, and all Repetitions, Copies, and Imitations of the Design of any such Painting or Drawing, or of the Negative of any such Photograph, which, contrary to the Provisions of this Act, shall have been made in any Foreign State, or in any Part of the British Dominions, are hereby absolutely prohibited to be imported into any Part of the British Dominions, except by or with the Consent of the Proprietor of the Copyright thereof, or his Agent authorized in Writing; and if the Proprietor of any such Copyright, or his Agent, shall declare that any Goods imported are Repetitions, Copies, or Imitations of any such Painting, Drawing, or Photograph, or of the Negative of any such Photograph, and so prohibited as aforesaid, then such Goods may be detained by the Officers of Her Majesty's Customs.

Application in such Cases of Customs Acts.

Saving of Right to bring Action for Damages.

**11.** If the Author of any Painting, Drawing, or Photograph, in which there shall be subsisting Copyright, after having sold or otherwise disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of such Copyright, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or the Negative of any such Photograph, or shall import or cause to be imported into any Part of the British Dominions, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be sold, published, let to Hire, exhibited, or distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of such Work, or the Design thereof, or the Negative of any such Photograph, made without such Consent as aforesaid, then every such Proprietor, in addition to the Remedies hereby given for the Recovery of any such Penalties, and Forfeiture of any such Things as aforesaid, may recover Damages by and in a Special Action on the Case, to be brought against the Person so offending, and may in such Action recover and enforce the Delivery to him of all unlawful Repetitions, Copies, and Imitations, and Negatives of Photographs, or may recover Damages for the Retention or Conversion thereof: Provided that nothing herein contained, nor any Proceeding, Conviction, or Judgment, for any Act hereby forbidden, shall affect any Remedy which any Person aggrieved by such Act may be entitled to either at Law or in Equity.

# Copyright (Works of Art).

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# BILL

[AS AMENDED IN COMMITTEE]

For amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

(*Prepared and brought in by Mr. Massey, Mr. Solicitor General, and Mr. Attorney General.*)

*Ordered, by* The House of Commons, *to be Printed*, 20 *March* 1862.

[Bill 53.]

*Under* 1 *oz.*

A

# BILL

TO

## Amend the Law relating to Corrupt Practices at Elections of Members of Parliament.

WHEREAS the "Corrupt Practices Prevention Act, 1854," as amended by an Act of the Session holden in the Twenty-first and Twenty-second Years of Her Majesty, Chapter Eighty-seven, is limited to continue in force until the First Day of September One thousand eight hundred and sixty-two, and until the End of the next Session of Parliament; and it is expedient to make better Provision for preventing Corrupt Practices at Elections of Members of Parliament, and otherwise to amend the Law relating to Elections: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

*Preliminary.*

**1.** The several Acts of Parliament mentioned in the Schedule (A.) hereto annexed shall be repealed to the Extent specified concerning the same Acts respectively in the Third Column of the said Schedule. Repeal of Acts in Schedule (A.)

Short Title.

**2.** This Act may be cited for any Purpose as the "Corrupt Practices Prevention Act, 1862."

Interpretation of Terms.
17 & 18 Vict. c. 102. s. 38.
21 & 22 Vict. c. 87. s. 3.

**3.** Throughout this Act, in the Construction thereof, except there be something in the Subject or Context repugnant to such Construction, the Word "County" shall extend to and mean any County, Riding, Parts, or Division of a County, Stewartry, or combined Counties respectively returning a Member or Members to serve in Parliament; and the Words "City or Borough" shall mean any University, City, Borough, Town Corporate, County of a City, County of a Town, Cinque Port, District of Burghs, or other Place or Combination of Places (not being a County as herein-before defined returning a Member or Members to serve in Parliament); and the Word "Election" shall mean the Election of any Member or Members to serve in Parliament; and the Words "Returning Officer" shall apply to any Person or Persons to whom, by virtue of his or their Office, under any Law, Custom, or Statute, the Execution of any Writ or Precept doth or shall belong for the Election of a Member or Members to serve in Parliament, by whatever Name or Title such Person or Persons may be called; and the Words "Revising Barrister" shall extend to and include an Assistant Barrister and Chairman presiding in any Court held for the Revision of the Lists of Voters, or his Deputy, in Ireland, and a Sheriff or Sheriff's Court of Appeal in Scotland, and every other Person whose Duty it may be to hold a Court for the Revision and Correction of the Lists or Registers of Voters in any Part of the United Kingdom; and the Word "Voter" shall mean any Person who has or claims to have a Right to vote in the Election of a Member or Members to serve in Parliament; the Words "Candidate at an Election," and the Words "Candidate at any Election," shall include all Persons elected to serve in Parliament at such Election, and all Persons nominated as Candidates at such Election, or who shall have declared themselves Candidates on or after the Day of the issuing of the Writ for such Election, or after the Dissolution or Vacancy in consequence of which such Writ shall have been issued.

Commencement and Duration of Act.

**4.** This Act shall commence on the *First Day of September One thousand eight hundred and sixty-two*, and shall continue in force thenceforth for *Five* Years, and to the End of the then next Session of Parliament.

*Conduct at Elections.*

Bribery defined.
17 & 18 Vict. c. 102. s. 2.

**5.** The following Persons shall be deemed guilty of Bribery, and shall be punishable accordingly:

1. Every Person who shall, directly or indirectly, by himself, or by any other Person on his Behalf, give, lend, or agree to give or lend,

lend, or shall offer, promise, or promise to procure or to endeavour to procure, any Money or valuable Consideration to or for any Voter, or to or for any Person on behalf of any Voter, or to or for any other Person, in order to induce any Voter to vote or refrain from voting, or shall corruptly do any such Act as aforesaid, on account of such Voter having voted or refrained from voting at any Election:

2. Every Person who shall, directly or indirectly, by himself or by any other Person on his Behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or to endeavour to procure, any Office, Place, or Employment to or for any Voter, or to or for any Person on behalf of any Voter, or to or for any other Person, in order to induce such Voter to vote or refrain from voting, or shall corruptly do any such Act as aforesaid, on account of any Voter having voted or refrained from voting at any Election:

3. Every Person who shall, directly or indirectly, by himself, or by any other Person on his Behalf, make any such Gift, Loan, Offer, Promise, Procurement, or Agreement as aforesaid to or for any Person, in order to induce such Person to procure or endeavour to procure the Return of any Person to serve in Parliament, or the Vote of any Voter at any Election:

4. Every Person who shall upon or in consequence of any such Gift, Loan, Offer, Promise, Procurement, or Agreement, procure, or engage, promise, or endeavour to procure, the Return of any Person to serve in Parliament, or the Vote of any Voter at any Election:

5. Every Person who shall advance or pay or cause to be paid any Money to or to the Use of any other Person, with the Intent that such Money or any Part thereof shall be expended in Bribery at any Election, or who shall knowingly pay or cause to be paid any Money to any Person in Discharge or Repayment of any Money wholly or in part expended in Bribery at any Election:

And any Person so offending shall be guilty of a Misdemeanor, and in Scotland of an Offence punishable by Fine and Imprisonment, and shall also be liable to forfeit the Sum of *Twenty Pounds* to any Person who shall sue for the same, together with full Costs of Suit: Provided always, that the aforesaid Enactment shall not extend or be construed to extend to any Money paid or agreed to be paid for or on account of any legal Expenses bonâ fide incurred at or concerning any Election.

Bribery further defined. 17 & 18 Vict. c. 102. s. 3.

**6.** The following Persons shall also be deemed guilty of Bribery, and shall be punishable accordingly:

1. Every Voter who shall, before or during any Election, directly or indirectly, by himself or by any other Person on his Behalf, receive, agree, or contract for any Money, Gift, Loan, or valuable Consideration, Office, Place, or Employment, for himself or for any other Person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any Election:
2. Every Person who shall, after any Election, directly or indirectly, by himself, or by any other Person on his Behalf, receive any Money or valuable Consideration on account of any Person having voted or refrained from voting, or having induced any other Person to vote or to refrain from voting, at any Election:

And any Person so offending shall be guilty of a Misdemeanor, and in Scotland of an Offence punishable by Fine and Imprisonment, and shall also be liable to forfeit the Sum of *Ten Pounds* to any Person who shall sue for the same, together with full Costs of Suit.

Treating defined. 17 & 18 Vict. c. 102. s. 4.

**7.** Every Candidate at an Election, who shall corruptly by himself, or by or with any Person, or by any other Ways or Means on his Behalf, at any Time, either before, during, or after any Election, directly or indirectly give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay, wholly or in part, any Expenses incurred for any Meat, Drink, Entertainment, or Provision to or for any Person, in order to be elected, or for being elected, or for the Purpose of corruptly influencing any Person to give or refrain from giving his Vote at such Election, or on account of any Person having voted or refrained from voting, or being about to vote or refrain from voting, at such Election, shall be deemed guilty of the Offence of Treating, and shall forfeit the Sum of *Twenty Pounds* to any Person who shall sue for the same, with full Costs of Suit; and every Voter who shall corruptly accept or take any such Meat, Drink, Entertainment, or Provision shall be incapable of voting at such Election, and his Vote, if given, shall be utterly void and of none Effect.

Undue Influence defined. 17 & 18 Vict. c. 102. s. 5.

**8.** Every Person who shall, directly or indirectly, by himself, or by any other Person on his Behalf, make use of, or threaten to make use of, any Force, Violence, or Restraint, or inflict or threaten the Infliction, by himself, or by or through any other Person, of any Injury, Damage, Harm, or Loss, or in any other Manner practise Intimidation upon or against any Person, in order to induce or compel such Person to vote or refrain from voting, or on account of such Person having voted or refrained from voting, at any Election,

Election, or who shall, by Abduction, Duress, or any fraudulent Device or Contrivance, impede, prevent, or otherwise interfere with the free Exercise of the Franchise of any Voter, or shall thereby compel, induce, or prevail upon any Voter, either to give or to refrain from giving his Vote at any Election, shall be deemed to have committed the Offence of undue Influence, and shall be guilty of a Misdemeanor, and in Scotland of an Offence punishable by Fine and Imprisonment, and shall also be liable to forfeit the Sum of *Twenty Pounds* to any Person who shall sue for the same, together with full Costs of Suit. Penalty.

**9.** Whenever it shall be proved before the Revising Barrister that any Person who is or claims to be placed on the List or Register of Voters for any County, City, or Borough has been convicted of Bribery or undue Influence at an Election, or that Judgment has been obtained against any such Person for any Penal Sum hereby made recoverable in respect of the Offences of Bribery, Treating, or undue Influence, or either of them, then and in that Case such Revising Barrister shall, in case the Name of such Person is in the List of Voters, expunge the same therefrom, or shall, in case such Person is claiming to have his Name inserted therein, disallow such Claim; and the Names of all Persons whose Names shall be so expunged from the List of Voters, and whose Claims shall be so disallowed, shall be thereupon inserted in a separate List, to be entitled "The "List of Persons disqualified for Bribery, Treating, or undue "Influence," which last-mentioned List shall be appended to the List or Register of Voters, and shall be printed and published therewith, wherever the same shall be or is required to be printed or published. Names of Offenders to be struck out of Register and inserted in separate List. 17 & 18 Vict. c. 102. s. 6.

**10.** If any Candidate at an Election for any County, City, or Borough shall be declared by any Election Committee guilty, by himself or his Agents, of Bribery, Treating, or undue Influence at such Election, such Candidate shall be incapable of being elected or sitting in Parliament for such County, City, or Borough during the Parliament then in existence. Candidates declared guilty of Bribery incapable of being elected during Parliament then in existence. 17 & 18 Vict. c. 102. s. 36.

**11.** If any Person, either during any Election, or within Six Calendar Months previous to such Election, be employed as Counsel, Agent, Attorney, Poll Clerk, Messenger, Doorkeeper, or in any other Capacity for the Purposes of such Election, and at any Time, either before, during, or after such Election, accept or take from any Candidate, or from any Person whatsoever, for or in consideration of or with reference to such Employment, any Money, Retaining Fee, Office, Place, or Employment, or any Promise or Security for any Money, Retaining Fee, Office, Place, or Employment, such Person shall be incapable Disqualification of Agents. 7 & 8 G. 4. c. 37. s. 1.

incapable of voting at such Election, and if he give any Vote at such Election his Vote shall be void.

Refreshments to Voters on Days of Nomination or Polling declared illegal. 17 & 18 Vict. c. 102. s. 23.

**12.** The giving or causing to be given to any Voter on the Day of Nomination or Day of Polling, on account of such Voter having polled or being about to poll, any Meat, Drink, or Entertainment by way of Refreshment, or any Money or Ticket to enable such Voter to obtain Refreshment, shall be deemed an illegal Act, and the Person so offending shall forfeit the Sum of *Forty Shillings* for each Offence to any Person who shall sue for the same, together with full Costs of Suit.

No Cockades to be given at Elections. 17 & 18 Vict. c. 102. s. 7.

**13.** No Candidate before, during, or after any Election shall in regard to such Election, by himself or his Agent, directly or indirectly, give or provide to or for any Person having a Vote at such Election, or to or for any Inhabitant of the County, City, Borough, or Place for which such Election is had, any Cockade, Ribbon, or other Mark of Distinction; and every Person so giving or providing shall for every such Offence forfeit the Sum of *Two Pounds* to such Person as shall sue for the same, together with full Costs of Suit; and all Payments made for or on account of any Chairing, or any such Cockade, Ribbon, or Mark of Distinction as aforesaid, or of any Bands of Music or Flags or Banners, shall be deemed illegal Payments within this Act.

Voters not to serve as Special Constables during Elections. 17 & 18 Vict. c. 102. s. 8.

**14.** No Person having a Right to vote at the Election for any County, City, Borough, or other Place shall be liable or compelled to serve as a Special Constable at or during any Election for a Member or Members to serve in Parliament for such County, City, Borough, or other Place, unless he shall consent so to act; and he shall not be liable to any Fine, Penalty, or Punishment whatever for refusing so to act, any Statute, Law, or Usage to the contrary notwithstanding.

Travelling Expenses. 21 & 22 Vict. c. 87. s. 1.

**15.** It shall be lawful for any Candidate or his Agent, appointed as herein-after mentioned, to provide Conveyance for any Voter for the Purpose of polling at an Election, and not otherwise, but it shall not be lawful to pay any Money or give any valuable Consideration to a Voter for or in respect of his travelling Expenses for such Purpose.

Returning Officer to give Notice of Act. 17 & 18 Vict. c. 102. s. 11.

**16.** For the more effectual Observance of this Act, every Returning Officer to whom the Execution of any Writ or Precept for electing any Member or Members to serve in Parliament may appertain or belong shall, in lieu of the Proclamation or Notice of Election heretofore

tofore used, publish or cause to be published such Proclamation or Notice of Election as is mentioned in Schedule (B.) to this Act, or to the like Effect.

*Expenses of Elections.*

**17.** It shall not be lawful to make any Payment (except in respect of the personal Expenses of a Candidate, and such lawful and reasonable Expenses as the Candidate or his Agents believe fit to be paid in ready Money, and the Payment of which cannot conveniently be postponed,) by or on behalf of any Candidate at an Election on account of or in respect of such Election otherwise than through an Agent or Agents whose Name and Address or Names and Addresses shall be declared in Writing to the Returning Officer; and any Person making any such Payment otherwise than through such Agent or Agents shall be guilty of a Misdemeanor, or in Scotland of an Offence punishable by Fine and Imprisonment. It shall be the Duty of the Returning Officer to publish, at or before the Nomination, the Name and Address or the Names and Addresses of the Agent or Agents appointed in pursuance of this Section. Authorized Agents for Payment of Expenses.

**18.** All Persons who shall have any Bills, Charges, or Claims upon any Candidate for or in respect of any Election shall send in such Bills, Charges, or Claims within One Month from the Day of the Declaration of the Election to such Agent or Agents as aforesaid, otherwise such Persons shall be barred of their Right to recover such Claims and every or any Part thereof: Provided always, that in case of the Death within the said Month of any Person claiming the Amount of such Bill, Charge, or Claim, the legal Representative of such Person shall send in such Bill, Charge, or Claim within *One Month* after obtaining Probate or Letters of Administration, or Confirmation as Executor, as the Case may be, or the Right to recover such Claim shall be barred as aforesaid. Bills, &c. to be sent in within One Month to Candidate, or Right to recover barred. 17 & 18 Vict. c. 102. s. 16.

**19.** A detailed Statement of all Election Expenses incurred by or on behalf of any Candidate, including such excepted Payments as aforesaid, shall, within *Three* Months after the Election, (or in Cases where by reason of the Death of the Creditor no Bill has been sent in within such Period of *Three* Months, then within *One Month* after such Bill has been sent in,) be made out and signed by the Agent, or, if there be more than One, every Agent who has paid the same (including the Candidate in case of Payments made by him), and delivered, with the Bills and Vouchers relative thereto, to the Returning Officer, and such Returning Officer shall, as soon as conveniently may be, insert or cause to be inserted such Statement, with the Signature of the Agent thereto, in some Newspaper published Publication of Statement of Election Expenses.

lished or circulating in the County or Place where the Election was held; and any Agent or Candidate who shall wilfully furnish to the said Returning Officer an untrue Statement shall be guilty of a Misdemeanor, or in Scotland of an Offence punishable by Fine and Imprisonment; and the said Returning Officer shall preserve all such Bills and Vouchers, and during *Six* Months after they have been delivered to him permit any Voter to inspect the same, on Payment of a Fee of *One Shilling*.

*Legal Proceedings.*

Limitation of Actions. 17 & 18 Vict. c. 102. s. 14.

**20.** No Person shall be liable to any Penalty or Forfeiture hereby enacted or imposed, or be tried for any Misdemeanor or other Offence under this Act, unless some Indictment, Information, Prosecution, Action, or Suit for the Offence committed shall be commenced against such Person within the Space of One Year next after such Offence against this Act shall be committed, and unless such Person shall be summoned or otherwise served with Writ or Process within the same Space of Time, so as such Summons or Service of Writ or Process shall not be prevented by such Person absconding or withdrawing out of the Jurisdiction of the Court out of which such Writ or other Process shall have issued; and in case of any such Prosecution, Suit, or Process as aforesaid, the same shall be proceeded with and carried on without any wilful Delay.

General Allegations sufficient in Indictments.

**21.** In any Indictment or Information for Bribery or undue Influence, and any Action or Proceeding for any Penalty for Bribery, Treating, or undue Influence, it shall be sufficient to allege that the Defendant was at the Election at or in connexion with which the Offence is intended to be alleged to have been committed guilty of Bribery, Treating, or undue Influence (as the Case may require); and in any Criminal or Civil Proceedings in relation to any such Offence the Certificate of the Returning Officer in this Behalf shall be sufficient Evidence of the holding of the Election, and of any Person therein named having been a Candidate thereat.

Evidence of Witness on Election Committee and before Commissions. 15 & 16 Vict. c. 57. s. 9, 10.

**22.** No Person who is called as a Witness before any Election Committee, or any Commissioners appointed in pursuance of the Act of the Session holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-seven, shall be excused from answering any Question on the Ground that the Answer thereto may criminate or tend to criminate himself; and it shall be lawful for the Committee, under the Hand of their Clerk, or the Commissioners under their Hands, to give to any Witness so examined a Certificate in Writing, stating that such Witness has upon his Examination made a true Disclosure touching all Things as to which he has been examined;

examined; and if any Information, Indictment, or Action be at any Time thereafter pending in any Court against such Witness for any Offence under this Act, committed by him previously to the Time of his giving his Evidence, and at or in relation to the Election concerning or in relation to which the Witness may have been so examined, the Court shall, on Production and Proof of such Certificate, stay the Proceedings in such last-mentioned Information, Indictment, or Action, and may, at its Discretion, award to such Witness such Costs as he may have been put to in such Information, Indictment, or Action.

Costs and Expenses of Prosecutions. 17 & 18 Vict. c. 102. s. 10.

**23.** It shall be lawful for any Criminal Court before which any Prosecution shall be instituted for any Offence against the Provisions of this Act to order Payment to the Prosecutor of such Costs and Expenses as to the said Court shall appear to have been reasonably incurred in and about the Conduct of such Prosecution: Provided always, that no Indictment for Bribery or undue Influence shall be triable before any Court of Quarter Sessions.

In Actions for Penalties, Parties to be competent Witnesses. 17 & 18 Vict. c. 102. s. 35.

**24.** On the Trial of any Action for Recovery of any pecuniary Penalty under this Act, the Parties to such Action, and the Husbands and Wives of such Parties respectively, shall be competent and compellable to give Evidence in the same Manner as Parties and their Husbands and Wives are competent and compellable to give Evidence in Actions and Suits under the Act of the Fourteenth and Fifteenth Victoria, Chapter Ninety-nine, and "The Evidence Amendment Act, 1853," but subject to and with the Exceptions contained in such several Acts: Provided always, that any such Evidence shall not thereafter be used in any Indictment or Criminal Proceeding under this Act against the Party giving it.

*Election Committees and Commissions.*

Regulations for Election Committees.

**25.** The following Regulations shall be made with respect to the Proceedings of Select Committees appointed to try Election Petitions:

1. Every such Committee shall report to the House of Commons the Names of all such Persons as they may in any Inquiry before them find to have been guilty of Bribery or Treating, with their Opinion whether they think that all or any of such Persons should be prosecuted:

2. On any Charge of Treating being brought before any Election Committee, it shall not be necessary to prove Agency in the

first instance before giving in Evidence the Facts whereby the Charge of Treating is to be sustained:

3. Where any Person who has voted at any Election is found by any Committee to have been guilty of Bribery or Treating at such Election, his Vote shall be void, and may, upon a Scrutiny, be struck off the List of Voters, notwithstanding that the Name of such guilty Person has not been included in the List of Voters to be objected to:

4. Where any Election Petition complains that Bribery, Treating, or other Corrupt Practices have been committed at any Election, the Committee to whose Determination such Petition is referred shall report to the House of Commons whether or not Corrupt Practices have, or whether there is reason to believe Corrupt Practices have, extensively prevailed at such Election in the Place to which the Petition refers.

Prosecutions for Bribery.

**26.** Where an Election Committee has reported to the House of Commons that certain Persons named by them have been guilty of Bribery or Treating and ought to be prosecuted for such Offences, and where it appears by the Report of any Commission of Inquiry into Corrupt Practices at any Election made to Her Majesty and laid before Parliament that certain Persons named by them have been guilty of the Offences of Bribery or Treating, and have not been furnished by them with Certificates of Indemnity, such Report shall be laid before the Attorney General.

Suspension of Writs.

**27.** When after the Presentation of a Report to Parliament by a Commission of Inquiry into Corrupt Practices at an Election for any County, City, or Borough, that extensive Bribery has prevailed in such Place, the House of Commons resolves that no Writ ought to be issued for the Election of a Member or Members for such Place for a Period of Five Years, no Writ shall be issued for an Election for a Member or Members for such Place till the Expiration of *Five* Years from the Date of such Resolution; but this Provision shall not be held in any way to affect the Right of Parliament, either altogether to disfranchise such Place, or to alter, suspend, or take away the Right of voting of all or any of the Electors therein.

The

## The SCHEDULE (A.) above referred to.

| Date of Act. | Title of Act. | Extent of Repeal. |
|---|---|---|
| 7 W. 3. c. 4. A.D. 1695. | An Act for preventing Charge and Expense in Elections of Members to serve in Parliament. | The whole Act. |
| 2 G. 2. c. 24. A.D. 1729. | An Act for the more effectual preventing Bribery and Corruption in the Election of Members to serve in Parliament. | All the Act, except the 3d Section, prescribing the Oath to be taken by Returning Officers, and except so far as the Penalties and Provisions of the said Act are applicable to the false taking of such Oath, and the Neglect to take the same. |
| 16 G. 2. c. 11. A.D. 1743. | An Act to explain and amend the Laws touching the Elections of Members to serve for the Commons in Parliament for that Part of Great Britain called Scotland, and to restrain the Partiality and regulate the Conduct of Returning Officers at such Elections. | So much of the Act as is contained in the 33d Section. |
| 43 G. 3. c. 74. A.D. 1803. | An Act for further regulating the Administration of the Oath or Affirmation required to be taken by Electors of Members to serve in Parliament by an Act passed in the Second Year of King George the Second, intituled "An Act for the "more effectual preventing Bribery "and Corruption in the Election of "Members to serve in Parliament." | The whole Act. |
| 49 G. 3. c. 118. A.D. 1809. | An Act for better securing the Independence and Purity of Parliament, by preventing the procuring or obtaining of Seats in Parliament by corrupt Practices. | The whole Act. |
| 4 G. 4. c. 55. A.D. 1823. | An Act to consolidate and amend the several Acts now in force, so far as the same relate to the Election and Return of Members to serve in Parliament for Counties of Cities and Counties of Towns in Ireland. | So much of the Act as is contained in the 48th, 79th, and 81st Sections. |

| Date of Act. | Title of Act. | Extent of Repeal. |
|---|---|---|
| 7 & 8 G. 4. c. 37. A.D. 1827. | An Act to make further Regulations for preventing corrupt Practices at Elections of Members to serve in Parliament, and for diminishing the Expense of such Elections. | The whole Act. |
| 2 & 3 W. 4. c. 65. A.D. 1832. | An Act to amend the Representation of the People of Scotland. | So much of the 26th Section of the Act and the Schedule (K.) thereto annexed as relates to the Oath or Affirmation against Bribery to be put to any registered Voter at any Poll or Election. |
| 2 & 3 W. 4. c. 88. A.D. 1832. | An Act to amend the Representation of the People of Ireland. | So much of the 54th Section of the Act as relates to administering the Oath or Affirmation against Bribery. |
| 5 & 6 Vict. c. 102. A.D. 1842. | An Act for the better Discovery and Prevention of Bribery and Treating at the Election of Members of Parliament. | So much of the Act as is contained in the 20th and 22d Sections. |
| 15 & 16 Vict. c. 57. A.D. 1852. | An Act to provide for more effectual Inquiry into the Existence of Corrupt Practices at Elections for Members to serve in Parliament. | Sections 9 and 10. |

## SCHEDULE (B.)

No. 1.—*Proclamation to be used in Counties.*

Election of Knight, *&c.*

THE Sheriff of the County of will, at the Day of now next ensuing, proceed to the Election of a Knight *or* Knights, Member *or* Members [*as the Case may be*] for the County *or* Division of a County [*as the Case may be*], at which Time and Place all Persons entitled to vote at the said Election are requested to give their Attendance.

And take notice, That all Persons who are guilty of Bribery at the said Election will, on Conviction of such Offence, be liable to the Penalties mentioned in that Behalf in "The Corrupt Practices Prevention Act, 1862."

And take notice, That all Persons who are guilty of Treating or undue Influence at the said Election will, on Conviction of such Offence, be liable to the Penalties mentioned in that Behalf in "The Corrupt Practices Prevention Act, 1862."

*Signature of the proper Officer.*

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No. 2.—*Notice of Election in Boroughs.*

City or Borough of Day of

IN pursuance of a Writ received by me for electing a Burgess *or* Burgesses [*as the Case may be*] to serve in Parliament for the City *or* Borough [*as the Case may be*], I do hereby give Notice, That I shall proceed to Election accordingly on the Day of at o'Clock in , when and where all Persons concerned are to give their Attendance.

And take notice, That all Persons who are guilty of Bribery at the said Election will, on Conviction of such Offence, be liable to the Penalties mentioned in that Behalf in "The Corrupt Practices Prevention Act, 1862."

And take notice, That all Persons who are guilty of Treating or undue Influence at the said Election will, on Conviction of such Offence, be liable to the Penalties mentioned in that Behalf in "The Corrupt Practices Prevention Act, 1862."

*Signature of the proper Officer.*

# Corrupt Practices at Elections.

A

# BILL

To amend the Law relating to Corrupt Practices at Elections of Members of Parliament.

(*Prepared and brought in by Sir George Grey and Mr. Attorney General.*)

*Ordered, by* The House of Commons, *to be Printed*, 10 *April* 1862.

[Bill 83.]

*Under 2 oz.*

A

# BILL

TO

## Continue the Corrupt Practices Prevention Act (1854).

WHEREAS an Act was passed in the Session holden in the Seventeenth and Eighteenth Years of Her Majesty, Chapter One hundred and two, "to consolidate and "amend the Laws relating to Bribery, Treating, and undue Influence "at Elections of Members of Parliament;" and such Act was amended by an Act of the Session holden in the Twenty-first and Twenty-second Years of Her Majesty, Chapter Eighty-seven: And whereas the said first-mentioned Act, as so amended, has, by an Act of the Session holden in the Twenty-fourth and Twenty-fifth Years of Her Majesty, Chapter One hundred and twenty-two, been continued until the First Day of September One thousand eight hundred and sixty-two, and it is expedient that it should be further continued: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble. 17 & 18 Vict. c. 102. 21 & 22 Vict. c. 87. 24 & 25 Vict. c. 122.

**1.** The said first-mentioned Act, as amended by the said Act of the Twenty-first and Twenty-second Years of Her Majesty, shall continue in force until the *First Day of September One thousand eight hundred and sixty-three, and to the End of the then next Session of Parliament.* Duration of Act.

[Bill 226.]

# Corrupt Practices Prevention Act Continuance.

A

# BILL

TO

Continue the Corrupt Practices Prevention Act (1854).

(*Prepared and brought in by Sir George Grey and Mr. Clive.*)

*Ordered, by* The House of Commons, *to be Printed*, 22 *July* 1862.

[Bill 226.]

*Under* 1 *oz.*

A

# BILL

INTITULED

## An Act to incorporate the General Council of Medical Education and Registration of the United Kingdom, and for other Purposes.

Preamble. 21 & 22 Vict. c. 90.

WHEREAS by the Medical Act, passed in the Session holden in the Twenty-first and Twenty-second Years of the Reign of Her present Majesty, Chapter Ninety, a Council is established, under the Style of "The General Council of Medical Education and Registration of the United Kingdom," and certain Duties and Obligations are imposed on such Council, and in particular it is provided, that the General Council shall cause to be published under their Direction a Book, containing a List of Medicines and Compounds, and the Manner of preparing them, together with the true Weights and Measures by which they are to be prepared and mixed, and containing such other Matter and Things relating thereto as the General Council shall think fit, to be called "British Pharmacopœia," and Power is given to the said Council to alter, amend, and republish such Pharmacopœia as often as they shall deem it necessary: And whereas different Pharmacopœias have hitherto been in use in England, Scotland, and Ireland, published in England under the Direction of the Royal College of Physicians of London, and sanctioned by an Order of Her Majesty in Council, published in Scotland

 under

under the Direction of the Royal College of Physicians of Edinburgh, but without any legal Sanction, and published in Ireland under the Direction of the King and Queen's College of Physicians in Ireland, and sanctioned by Act of Parliament: And whereas the Pharmacopœia to be published by the said Council is intended to supersede the above-mentioned Pharmacopœias: And whereas it is expedient to incorporate the said Council, and to make such Provisions as are herein-after contained with respect to the said British Pharmacopœia: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Incorporation of Council.

**1.** "The General Council of Medical Education and Registration of the United Kingdom" shall be deemed to be and to have been, from the Date of its first Establishment, a Body Corporate by the Name aforesaid, having a perpetual Succession and a Common Seal, with a Capacity to hold Lands for the Purposes of the said Medical Act.

Right of printing Pharmacopœia vested in Council.

**2.** The exclusive Right of publishing, printing, and selling the said Pharmacopœia shall vest in the said General Council, subject to this Proviso, that it shall be lawful for the Commissioners of the Treasury from Time to Time to fix the Price at which Copies of the said Work are to be sold to the Public.

Sanction of British Pharmacopœia.

**3.** The British Pharmacopœia, when published, shall for all Purposes be deemed to be substituted throughout Great Britain and Ireland for the several above-mentioned Pharmacopœias, and any Act of Parliament, Order in Council, or Custom relating to any of such last-mentioned Pharmacopœias shall be deemed, after the Publication of the British Pharmacopœia, to refer to such Pharmacopœia.

Notice in the London, Edinburgh, and Dublin Gazettes to the effect that the British Pharmacopœia has been published shall be deemed sufficient Evidence of its Publication for the Purposes of this Act, and a Copy of the said Pharmacopœia printed by such Person as may be named in the said Notice, or in any other Notice published in the said Gazettes, as authorized by the General Council to print the said Pharmacopœia, shall be admitted in Evidence as being the Pharmacopœia directed to be published by the above-mentioned Act.

# Council of Medical Education.

A

# B I L L

INTITULED

An Act to incorporate the General Council of Medical Education and Registration of the United Kingdom, and for other Purposes.

(*Brought from the Lords* 24 *July* 1862.)

*Ordered, by* The House of Commons, *to be Printed*, 24 *July* 1862.

[Bill 234.]

*Under* 1 *oz.*

# County Courts Procedure Bill.

## ARRANGEMENT OF CLAUSES.

Preamble.
Interpretation of Act; Sect. 1.
Loss of Bill not to be set up if Indemnity given; 2.
Interpleader by Defendant; 3.
Judgment and Decision final; 4.
Claim of Third Party barred; 5.
Special Case may be stated; 6.
Equitable Defence may be relied on; 7.
Rules to set aside Verdict, &c. may be moved in certain Cases; 8.
Admission of Documents; 9.
Proof of Admission; 10.
Proof of Notice to produce; 11.

A

# BILL

TO

## Amend the Procedure of the County Courts.

Preamble.

WHEREAS it is expedient to amend the Procedure of the County Courts: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Interpretation of Act.

**1.** In this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; that is to say,

"Superior Court" shall be understood to mean One of Her Majesty's Superior Courts of Common Law at Westminster:

"County Court" shall be understood to mean a Court holden under the Statute passed in the Session of Parliament held in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled "An Act for the more easy Recovery of Small Debts and Demands in England," or any Act or Acts altering or amending the same:

"The Judge" shall be understood to mean the Judge of the County Court, and shall include a Deputy Judge:

"And the Registrar" shall be understood to mean the Registrar of the County Court, and shall include the Deputy Registrar and any Person appointed to perform or performing all or any of the Duties of Registrar.

Loss of Bill not to be set up if Indemnity given.
Common Law Procedure Act, 1854, s. 87.

**2.** In any Action founded on a Bill of Exchange or other negotiable Instrument, it shall be lawful for the Judge, and in his Absence for the Registrar, to order that the Loss of such Instrument shall not be set up as a Defence, provided an Indemnity is given to the Satisfaction of the Court or of the Registrar against the Claim of any other Person upon such negotiable Instrument.

Interpleader by Defendant in action.
*See* 1 & 2 Will. 4. c. 58. ss. 1. 2. and 3.

**3.** Upon Application made by or on Behalf of any Defendant, such Application being made before the Hearing of the Cause, by Affidavit or otherwise, showing that such Defendant does not claim any Interest in the Subject Matter of the Suit, but that the Right thereto is claimed or supposed to belong to some Third Party who has sued or is expected to sue for the same, and that such Defendant does not in any Manner collude with such Third Party, but is ready to bring into Court or to pay or dispose of the Subject Matter of the Action in such a Manner as the Court may order or direct, it shall be lawful for the Registrar to issue a Summons calling upon such Third Party to appear and state the Nature and Particulars of his Claim, and to maintain or relinquish his Claim, which Summons may be served upon such Third Party in any Part of England or Wales; and upon such Summons the Judge, and in his Absence the Registrar, may hear the Allegations as well of such Third Party as of the Plaintiff, and in the meantime stay the Proceedings in such Action, and finally order such Third Party to make himself Defendant in the same or some other Action, or to proceed to Trial on One or more Issue or Issues, and also direct which of the Parties shall be Plaintiff or Defendant on such Trial, or, with the Consent of the Plaintiff and such Third Party, their Counsel or Attornies, the Judge may dispose of the Merits of their Claims and determine the same in a summary Manner, and make such Order therein as to Costs and all other Matters as may appear to be just and reasonable.

Judgment and Decision final.

**4.** The Judgment in any such Action or Issue as may be ordered to be tried, and the Decision of the Judge given in a summary Manner, shall be final and conclusive against the Parties and all Persons claiming by, from, or under them.

Claim of Party not appearing barred.

**5.** If such Third Party shall not appear upon such Summons to maintain or relinquish the Claim, being duly served therewith, or shall neglect or refuse to comply with any Order to be made after Appearance,

pearance, it shall be lawful for the Court to declare such Third Party, and all Persons claiming by, from, or under him, to be for ever barred from prosecuting his Claim against the original Defendant, his Executors or Administrators, saving nevertheless the Right or Claim of such Third Party against the Plaintiff, and thereupon to make such Order between such Defendant and the Plaintiff as to Costs and other Matters as may appear just and reasonable.

Special Case may be stated. *See* Common Law Procedure Act, 1852 ss. 46, 47.

**6.** The Parties in any Action, Suit, or other Proceeding may at any Time, by Consent and Order of the Court, or of the Judge, state the Facts of the Case in the Form of a Special Case for the Opinion of a Superior Court, and may agree that Judgment shall be entered thereon for the Plaintiff or Defendant, as such Superior Court shall think fit, and for such Sum of Money, with or without Costs, as may be agreed upon, and such Judgment may be entered up accordingly.

Equitable Defence may be relied on. *See* Common Law Procedure Act, 1854 s. 83.

**7.** It shall be lawful for the Defendant or Plaintiff in Replevin in any Plaint, in which, if Judgment were obtained, he would be entitled to Relief against such Judgment on equitable Grounds to rely upon the Facts which entitle him to such Relief by way of Defence, and the Judge is hereby empowered to receive such Defence.

Rules to set aside Verdict, &c. may be moved in certain Cases.

**8.** If upon the Trial of any Action the Judge shall grant Leave to either Party to move in a Superior Court to set aside a Verdict or Nonsuit, or to enter a Verdict or Nonsuit, as the Case may be, or for a new Trial, the Party to whom such Leave may have been given may apply by Motion to such Court, within such Period of Time after the Trial as Motions of the like Kind shall from Time to Time be permitted to be made in such Court, for a Rule to show Cause why such Verdict or Nonsuit should not be set aside, and a Nonsuit or Verdict be entered, or why a new Trial should not be had, as the Case may be, (which Rule, when granted, shall operate as a Stay of Proceedings until the Determination thereof,) and in case such Court shall order a new Trial to be had, the Party obtaining such Order shall deliver an Office Copy thereof to the Registrar, and thereupon the Action shall proceed to Trial, in like Manner as if no Trial had been had therein; or in case the Court shall order such Rule to be discharged, the Party obtaining such Order may, upon delivering an Office Copy thereof to the Registrar, proceed as if no such Rule Nisi had been obtained; and if a Verdict be ordered to be entered for either Party, or a Nonsuit be ordered to be entered, Judgment shall be entered accordingly.



**9.** Either

Admission of Documents. Common Law Procedure Act, 1852, s. 117.

**9.** Either Party may call on the other Party by Notice to admit any Document, saving all just Exceptions; and in case of Refusal or Neglect to admit, the Costs of proving the Document shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless at the Trial the Judge shall decide that the Refusal to admit was reasonable, and no Costs of proving any Document shall be allowed, unless such Notice be given, except in Cases where the Omission to give the Notice is, in the Opinion of the Judge or Registrar, a Saving of Expense.

Proof of Admission. Common Law Procedure Act, 1852, s. 118.

**10.** An Affidavit of the Attorney in the Cause, or his Clerk, of the due Signature of any Admissions made in pursuance of such Notice, and annexed to the Affidavit, shall be in all Cases sufficient Evidence of such Admissions.

Proof of Notice to produce. Common Law Procedure Act, 1852, s. 119.

**11.** An Affidavit of the Attorney in the Cause, or his Clerk, of the Service of any Notice to produce, in respect of which Notice to admit shall have been given, and of the Time when it was served, with a Copy of such Notice to produce annexed to such Affidavit, shall be sufficient Evidence of the Service of the Original of such Notice, and of the Time when it was served.

# County Courts Procedure.

A

# B I L L

To amend the Procedure of the County Courts.

*(Prepared and brought in by Mr. McMahon and Mr. Cobbett.)*

*Ordered, by* The House of Commons, *to be Printed,* 20 *February* 1862.

[Bill 19.]

*Under* 1 *oz.*

15 *May* 1862. 25 Vict.

A

# BILL

TO

## Amend the Law relating to the Appointment of County Surveyors in Ireland.

Preamble.

WHEREAS it is expedient to amend the Law relating to the Appointment of County Surveyors in Ireland: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Part of 6 & 7 W. 4. c. 116. (s. 39.) and of 7 & 8 Vict. c. 106. (s. 7.) repealed.

**1.** So much of Section Thirty-nine of the Act of the Sixth and Seventh Years of King William the Fourth, Chapter One hundred and sixteen, and so much of Section Seven of the Act of the Seventh and Eighth Years of Her Majesty, Chapter One hundred and six, as respectively provide that the Lord Lieutenant shall appoint a Board of Three Civil or Military Engineers to examine and certify the Qualifications of all Persons desirous to act as Surveyors or Assistant Surveyors under the Provisions of the said first-recited Act, or as District Surveyors for the County of Dublin under the Provisions of the said second-recited Act, shall be and the same is hereby repealed.

Persons desirous to act as Surveyors

**2.** The Qualifications of all Persons desirous to act as Surveyors or Assistant Surveyors under the Provisions of the said first-recited Act,

or Assistant Surveyors under 6 & 7 W. 4. c. 116., or as District Surveyors under 7 & 8 Vict. c. 106. to be examined by the Civil Service Commissioners.

Act, or as District Surveyors for the County of Dublin, under the Provisions of the said second-recited Act, shall be examined into and certified by the Civil Service Commissioners for the Time being, appointed by Her Majesty in Council; and whenever a Vacancy shall occur in any of such Offices an Examination of all Persons desirous to fill the same shall be held at such Time and Place as the said Commissioners shall appoint, of which Examination due Notice shall be given, and One of the Persons who shall be certified by the said Commissioners shall be appointed to the vacant Office of Surveyor or Assistant Surveyor by the Lord Lieutenant, or other Chief Governor or Governors of Ireland, or to the vacant Office of District Surveyor for the County of Dublin by the Grand Jury of the said County, according as such Vacancies shall occur.

Commencement of Act.

**3.** This Act shall commence and take effect on and after the *First Day of October One thousand eight hundred and sixty-two.*

# County Surveyors (Ireland).

A

# BILL

To amend the Law relating to the Appointment of County Surveyors in Ireland.

(*Prepared and brought in by Sir Robert Peel and Sir George Grey.*)

*Ordered, by* The House of Commons, *to be Printed*, 15 *May* 1862.

[Bill 122.]

*Under* 1 *oz.*

16 *July* 1862. 25 & 26 Vict.

A

# BILL

[AS AMENDED IN COMMITTEE, AND ON CONSIDERATION OF BILL AS AMENDED,]

TO

## Amend the Law relating to the Appointment of County Surveyors in Ireland.

WHEREAS it is expedient to amend the Law relating to the Appointment of County Surveyors in Ireland: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** So much of Section Thirty-nine of the Act of the Sixth and Seventh Years of King William the Fourth, Chapter One hundred and sixteen, and so much of Section Seven of the Act of the Seventh and Eighth Years of Her Majesty, Chapter One hundred and six, as respectively provide that the Lord Lieutenant shall appoint a Board of Three Civil or Military Engineers to examine and certify the Qualifications of all Persons desirous to act as Surveyors under the Provisions of the said first-recited Act, or as District Surveyors for the County of Dublin under the Provisions of the said second-recited Act, shall be and the same is hereby repealed. Part of 6 & 7 W. 4. c. 116. (s. 39.) and of 7 & 8 Vict. c. 106. (s. 7.) repealed.

**2.** The Qualifications of all Persons desirous to act as Surveyors under the Provisions of the said first-recited Act, or as District Surveyors Persons desirous to act as Surveyors

under 6 & 7 W. 4. c. 116., or as District Surveyors under 7 & 8 Vict. c. 106. to be examined by the Civil Service Commissioners.

veyors for the County of Dublin, under the Provisions of the said second-recited Act, shall be examined into and certified by the Civil Service Commissioners for the Time being appointed by Her Majesty in Council; and whenever a Vacancy shall occur in any of such Offices an Examination of all Persons desirous to fill the same shall be held at such Time in Dublin as the said Commissioners shall appoint, of which Examination due Notice shall be given, and One of the Persons who shall be certified by the said Commissioners shall be appointed to the vacant Office of Surveyor by the Lord Lieutenant or other Chief Governor or Governors of Ireland, or to the vacant Office of Assistant Surveyor by the County Surveyor, subject to the Approval of the Grand Jury of such County, or to the vacant Office of District Surveyor for the County of Dublin by the Grand Jury of the said County, according as such Vacancies shall occur.

CLAUSE A. Persons certified under Acts 7 & 8 Vict. c. 106. and 6. & 7 W. 4. c. 116. eligible for County or District Surveyors.

**3.** The Persons who were duly certified by the Board of Examiners under the Act of the Seventh and Eighth Years of Victoria, Chapter One hundred and six, in the Year One thousand eight hundred and fifty-six, and who were further certified by the Board of Examiners to the Lord Lieutenant as duly qualified under the Act of the Sixth and Seventh Years of William the Fourth, Chapter One hundred and sixteen, shall continue to be deemed and taken as eligible for the Appointment of County Surveyor or District Surveyor, as the Case may be, without further Examination, and may be lawfully appointed to such Offices, anything in this Act to the contrary notwithstanding.

Commencement of Act.

**4.** This Act shall commence and take effect on and after the First Day of October One thousand eight hundred and sixty-two.

# County Surveyors (Ireland).

A

# BILL

[AS AMENDED IN COMMITTEE, AND ON CONSIDERATION OF BILL AS AMENDED,]

To amend the Law relating to the Appointment of County Surveyors in Ireland.

(*Prepared and brought in by Sir Robert Peel and Sir George Grey.*)

*Ordered, by* The House of Commons, *to be Printed*, 16 *July* 1862.

[Bill 211.]

*Under* 1 *oz.*

# LORDS AMENDMENT

TO THE

# COUNTY SURVEYORS (IRELAND) BILL.

Note.—*The Page and Line refer to the Bill* (206.) *as printed by the Lords.*

*Page* 2.

Lines 10 and 11. Leave out ("or to the vacant Office of "Assistant Surveyor by the County Surveyor")

[Bill 248.]

# LORDS AMENDMENT

TO THE

# COUNTY SURVEYORS (IRELAND) BILL.

*Ordered, by* The House of Commons, *to be Printed,*
31 *July* 1862.

[Bill 248.]

*Under* 1 *oz.*

18 *July* 1862. 25 & 26 Vict.

A

# B I L L

TO

## Render tenable during good Behaviour the Office of the Officer of the Court of Common Pleas by whom the Certificates of Acknowledgment of Deeds of married Women are filed of Record.

WHEREAS under the Provisions of an Act passed in the Third and Fourth Years of King William the Fourth, intituled "An Act for the Abolition of Fines and Recoveries, "and for the Substitution of more simple Modes of Assurance," the Officer of the Court of Common Pleas at Westminster, by whom the Certificates of Acknowledgments of Deeds by married Women are to be filed of Record according to the Directions contained in the said Act, may now be removed by the Lord Chief Justice for the Time being of the said Court of Common Pleas at his Pleasure, and it is expedient that such Officer should hold his Office and Appointment during good Behaviour: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same: Preamble. 3 & 4 W. 4. c. 74.

[Bill 219.]

1. That

Officer to hold Office during good Behaviour;

**1.** That such Officer and his Successors shall respectively from and after the *passing of this Act* hold such Office and Appointment during good Behaviour.

and subject to any Regulations which may be hereafter made by Parliament.

**2.** Provided always, That the said Officer and his Successors shall hold the said Office subject to any Regulations which may be hereafter made by Parliament concerning the same or the Duties thereof; and in the event of such Office being abolished, or of the Duties thereof being transferred or altered by any Act to be hereafter passed, or of any Alteration being made by competent Authority in the Fees, Emoluments, or Remuneration to be allowed to such Officer, the said Officer and his Successors shall not be entitled to make any Claim to Compensation which he or they would not have been entitled to make if this Act had not passed.

# Court of Common Pleas (Officer for Acknowledgment of Deeds).

A

# B I L L

To render tenable during good Behaviour the Office of the Officer of the Court of Common Pleas by whom the Certificates of Acknowledgment of Deeds of married Woman are filed of Record.

*(Prepared and brought in by Mr. Solicitor General, Mr. Attorney General, and Sir George Grey.*

*Ordered, by* The House of Commons, *to be Printed*, 18 *July* 1862.

[Bill 219.]

*Under* 1 *oz.*

# Courts of Justice Building Bill.

## ARRANGEMENT OF CLAUSES.

Preamble recites Issue of Commission for Inquiry into Concentration of Courts. Report in favour of Concentration. Deposit of Plans and Book of Reference descriptive of Site.

Short Title of Act; Sect. 1.

Incorporation of Commissioners of Works for Purposes of Act; 2.

Description of Purposes of Act; 3.

Power of Commissioners to purchase Lands; 4.

Lands to continue subject to Land Tax and Rates; 5.

Power of Commissioners to enter on Lands; 6.

Incorporation of Lands Clauses Act; 7.

Questions of disputed Compensation in London to be heard in the Lord Mayor's Court of the City of London; 8.

Extinction of Rights of Way and other Easements; 9.

Limit of Time for compulsory Purchase of Land; 10.

Powers of Commissioners to execute Works; 11.

Saving Rights of the Metropolitan Board of Works; 12.

Saving Rights of the Commissioners of Sewers; 13.

Exemption from Building Act; 14.

No Purchases to be without the Authority of the Treasury; 15.

Authentication of Notices; 16.

Orders concerning Money paid into Court may be made at Chambers; 17.

Penalty for obstructing Commissioners; 18.

Deeds not liable to Stamp Duty; 19.

Deeds to be enrolled in Court of Exchequer; 20.

Plans to be deposited in the Office of Works, &c. and be open for Inspection; 21.

A

# BILL

TO

## Enable the Commissioners of Her Majesty's Works and Public Buildings to acquire a Site for the Erection and Concentration of Courts of Justice, and of the various Offices belonging to the same.

Preamble.

Issue of Commission for Inquiry into Concentration of Courts.

Report in favour of Concentration.

WHEREAS a Commission was issued in the Year One thousand eight hundred and fifty-eight, under the Sign Manual of Her Majesty, for the Purpose of inquiring into the Expediency of bringing together into One Place or Neighbourhood all the Superior Courts of Law and Equity, the Probate and Divorce Courts, and the Court of Admiralty, and the various Offices belonging to the same, and into the Means which existed or might be supplied for providing a Site or Sites, and for erecting suitable Buildings for carrying out the above Objects: And whereas the said Commission have reported to Her Majesty, that the Concentration of such Courts is expedient, and have recommended as a Site for the said Courts and Offices certain Houses, Tenements, and other Buildings and Hereditaments situate in the Parish of Saint Clement Danes and the Liberty of the Rolls in the County of Middlesex, and the Parish of Saint Dunstan in the West in the City of London,

Deposit of Plans and Book of Reference descriptive of Site.

and more particularly described and shown on the Plans hereinafter mentioned, but such Lands cannot be acquired without the Authority of Parliament: And whereas Duplicate Plans describing the Situation of the said Houses, Tenements, and other Buildings and Lands, with a Book of Reference thereto, containing the Names of the Owners and Lessees or reputed Owners and Lessees, and of the Occupiers thereof, have been deposited with the Clerk of the Peace for the County of Middlesex at his Office at the Sessions House, Clerkenwell, and with the Clerk of the Peace for the City of London at his Office at the Sessions House in the Old Bailey, and it is expedient that Powers should be given to the Commissioners of Her Majesty's Works and Public Buildings to purchase such Lands, and to provide Accommodation for the said Courts and Offices or some of them: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

*Preliminary.*

Short Title of Act.

**1.** This Act may be cited for all Purposes as "The Courts of Justice Building Act, 1862."

*Incorporation of Commissioners.*

Incorporation of Commissioners of Works for Purposes of Act.

**2.** The Commissioners of Her Majesty's Works and Public Buildings for the Time being shall be incorporated for the Purposes of this Act by the Name and Style of "The Commissioners of Her Majesty's Works and Public Buildings," and by that Name shall have perpetual Succession and a Common Seal, to be by them from Time to Time altered as they think fit, with Power to hold Lands for the Purposes and subject to the Provisions of this Act.

*Acquisition of Site.*

Description of Purposes of Act.

**3.** The Purposes of this Act are the Acquisition in the same Neighbourhood of a convenient Site for the Accommodation of the Superior Courts of Law and Equity, or some of them, the Probate and Divorce Courts, and the Courts of Admiralty and the various Offices connected with them, and of such other Courts and Offices for the Administration of Justice as may from Time to Time be prescribed by the Commissioners of Her Majesty's Treasury, and the Erection on such Site of suitable Buildings, with all proper Furniture and Conveniences, and the constructing and doing such Works and Things as are conducive to the Attainment of the above Purposes or any of them, or incidental thereto.

**4.** The

Power of Commissioners to purchase Lands.

**4.** The Commissioners may, out of any Monies appropriated or to be appropriated by Parliament, and placed at the Disposal of the Commissioners for this Object, purchase, take, and use for the Purposes of this Act all or any of the Houses, Tenements, Buildings, and Lands described on the above-mentioned Plans and Book of Reference, and herein-after referred to as "the prescribed Lands," with the Exception of the Building known as Temple Bar, which they shall not be empowered to purchase, take, or use without the Consent of the Lord Mayor, Aldermen, and Commoners of the City of London in Common Council assembled, testified in Writing under the Hand of the Town Clerk of the said City for the Time being.

Lands to continue subject to Land Tax and Rates.

**5.** All Lands purchased by the Commissioners in pursuance of this Act, which were at the Time of such Purchase subject to Land Tax, to Poor or other Rates, shall continue liable thereto, but they shall not be assessed to any Tax or Rate at a higher Value than that at which they were assessed at the Time of the Purchase thereof.

Power of Commissioners to enter on Lands.

**6.** The Commissioners, their Surveyors, Officers, and Workmen, may at all reasonable Times in the Daytime, upon giving *Twenty-four* Hours previous Notice in Writing, enter into and upon any of the prescribed Lands for the Purpose of surveying or valuing the same.

Incorporation of Lands Clauses Act.

**7.** "The Lands Clauses Consolidation Act, 1845," and the Act amending the same passed in the Session of the Twenty-third and Twenty-fourth Years of Her present Majesty, Chapter One hundred and six, shall be incorporated with this Act, with the Exceptions and Additions and subject to the Provisions herein-after contained; (that is to say,)

(1.) There shall not be incorporated with this Act the Sections and Provisions of the "Lands Clauses Consolidation Act, 1845," herein-after mentioned, that is to say, Section Sixteen, whereby it is provided that the Capital is to be subscribed before the compulsory Powers are to be put in force; Section Seventeen, whereby it is provided that the Certificate of the Justices shall be Evidence that the Capital has been subscribed; or the Provisions relating to Access to the Special Act:

(2.) In the Construction of this Act and the said incorporated Acts this Act shall be deemed to be "the Special Act," and the Commissioners shall be deemed to be "the Promoters of the Undertaking."

Questions of disputed Compensation in London to be

**8.** In every Case in which any Question of disputed Compensation may be required to be determined by the Verdict of a Jury, in the City of London or the Liberties thereof, the Jury shall be required

heard in the Lord Mayor's Court of the City of London.

required to appear before the Court of the Lord Mayor and Aldermen of the City of London to be holden in the outer Chamber of the Guildhall of the said City according to the Custom of the said City, at a Time to be appointed by the said Court; and all the Directions and Provisions contained in "The Lands Clauses Consolidation Act, 1845," in respect to the Settlement of Questions of disputed Compensation by Juries appearing before the Sheriff, Coroner, or other Person, shall extend and be applied with respect to the Settlement of any such Question of disputed Compensation under this Act by Juries appearing before the said Court of Mayor and Aldermen as aforesaid; and the said Court shall give Judgment for the Purchase Money or Compensation assessed by such Jury; and a Verdict and Judgment shall be signed by the Registrar of the said Court of Mayor and Aldermen, and entered among the Records of the said Court, and the said Registrar shall settle the Costs of every such Inquiry.

Extinction of Rights of Way and other Easements.

**9.** Upon the Purchase by the Commissioners of the prescribed Lands or any Part thereof, all Rights of Way, Rights of laying down or of continuing any Pipes, Sewers, or Drains, on, through, or under such Lands or Part thereof, and all other Rights and Easements in or relating to such Lands or Part thereof, shall be extinguished, and all the Soil of such Ways, and the Property in the Pipes, Sewers, or Drains, shall vest in the Commissioners, subject to this Provision, that all Persons and Bodies of Persons, corporate or unincorporate, may recover from the Commissioners such Compensation, if any, as they may be entitled to for any Rights or Property of which they may be deprived in pursuance of this Section, the Amount of such Compensation to be determined in manner provided by the said Lands Clauses Consolidation Act, 1845.

Limit of Time for compulsory Purchase of Land.

**10.** The Limit for the compulsory Purchase of Lands under this Act shall be *Five* Years.

Powers of Commissioners to execute Works.

**11.** The Commissioners may pull down and remove any Buildings on the prescribed Lands, and may construct thereon such Buildings and Works, and do all such other Things, as may in their Opinion be necessary or expedient in order to carry into effect the Purposes of this Act or any of them.

Saving Rights of the Metropolitan Board of Works.

**12.** Nothing in this Act shall extend to take away or impair any Rights or Jurisdiction of the Metropolitan Board of Works in relation to any Sewers, Drains, or Watercourses.

Saving Rights of the Com-

**13.** Nothing in this Act contained shall prejudice, diminish, alter, or take away any of the Rights, Powers, or Authorities vested in the Commissioners

Commissioners of Sewers of the City of London, with respect to Bell Yard, Fleet Street, in the City of London. missioners of Sewers.

**14.** All Buildings erected on the prescribed Lands shall be exempt from the Operation of the First Part of "The Metropolitan Buildings Act, 1855." Exemption from Building Act.

*Miscellaneous.*

**15.** No Purchase shall be made by the Commissioners for the Purposes of the Act without the Consent in Writing of the Commissioners of Her Majesty's Treasury, but it shall not be necessary for any Vendor or any Purchaser from the said Commissioners to ascertain that such Assent has been given, nor shall the Commissioners be bound to produce to any such Vendor or Purchaser any Evidence of such Assent; and any such Assent may be given either generally, or for any particular Purchase or Purchases, as to the said Commissioners of the Treasury may as aforesaid seem meet. No Purchases to be without the Authority of the Treasury.

**16.** Every Notice, Summons, Writ, or other Document required to be given, issued, or signed by or on behalf of the Commissioners may be given, issued, or signed by the Solicitor or Secretary for the Time being of the Commissioners of Her Majesty's Works and Public Buildings, and need not be under the Common Seal of the Commissioners, and may be in Writing or in Print, or partly in Writing and partly in Print. Authentication of Notices.

**17.** All Orders in relation to any Money paid into the Bank of England in the Name and with the Privity of the Accountant General of the Court of Chancery under this Act, or the Securities in or upon which the same may be invested, or the Dividends or Interest on such Money and Securities, which under this Act the Court of Chancery is empowered to make on Motion or Petition, shall be applied for to the Master of the Rolls or any of the Vice-Chancellors, while sitting at Chambers, upon Summons, in like Manner as in other Cases in which Proceedings may be so had before the Master of the Rolls and Vice-Chancellor, subject nevertheless to any General Orders which may hereafter be made concerning the Practice, Proceedings, or Business of the said Court, or any such Applications. Orders concerning Money paid into Court may be made at Chambers.

**18.** If any Person wilfully obstruct any Person acting under the Authority of the Commissioners in the lawful Exercise of the Powers vested in them under this Act, he shall forfeit a Sum not exceeding *Five Pounds* for every such Offence, to be recovered in a summary Manner. Penalty for obstructing Commissioners.

Deeds not liable to Stamp Duty.

**19.** No Deed, Bond, or other Instrument made by, to, or with the Commissioners for any of the Purposes of this Act shall be subject to any Stamp Duty imposed by any Act now in force, nor to any Stamp Duty to be imposed by any future Act, unless such Instruments are specially charged therewith in such future Act.

Deeds to be enrolled in Court of Exchequer.

**20.** Every Conveyance, Assignment, or other Deed or Instrument whereby any Land by this Act authorized to be purchased is conveyed or assigned to the Commissioners for the Purposes of this Act, shall be enrolled amongst the Records of Her Majesty's Court of Exchequer, and entered in the Books of the said Commissioners; and every such Conveyance, Assignment, or other Deed or Instrument, when so enrolled, shall, without any other Enrolment or Acknowledgment thereof, and without any Registry thereof, be good and available in Law, any Act of Parliament, Law, Practice, or Usage to the contrary in anywise notwithstanding.

Plans to be deposited in the Office of Works, &c. and be open for Inspection.

**21.** A Copy of the Plans of the prescribed Lands shall be deposited at the Office of the Commissioners of Her Majesty's Works and Public Buildings, and shall remain at the said Office, to the end that all Persons may at all seasonable Times, on Payment of a Fee of *One Shilling*, have Liberty to inspect the same.

# Courts of Justice Building.

A

# BILL

To enable the Commissioners of Her Majesty's Works and Public Buildings to acquire a Site for the Erection and Concentration of Courts of Justice, and of the various Offices belonging to the same.

(*Prepared and brought in by Mr. Cowper and Mr. Peel.*)

*Ordered, by* The House of Commons, *to be Printed*, 11 *March* 1862.

[Bill 36.]

*Under 2 oz.*

# Courts of Justice (Money) Bill.

Analysis of Preamble.

Deposit of Monies with the Court of Chancery.
Option of Suitors to invest Deposits.
General Cash Balance of uninvested Deposits.
Power to invest Portion of General Cash Balance.
Application of Investments.
Application of Income of Investments of General Cash Balance.
Surplus Interest Fund of 1,291,629*l.* 10*s.* 5*d.* Stock consists of the Surplus of such Income.
Surplus Fee Fund of 201,028*l.* 2*s.* 3*d.* Stock.
Object of Act.
Courts of Justice Building Act.
Expediency of appropriating Funds to Purposes of Act.

Arrangement of Sections.

Appropriation of Funds.

1. Appropriation of Funds to Payment of Expenses.
2. Mode of dealing with appropriated Funds.
3. Indemnity to General Cash Balance against Loss.
4. Compensation for Loss of Income of Surplus Interest Fund and Surplus Fee Fund.

Saving of Jurisdiction on Removal of Courts.

5. Saving of Jurisdiction of Courts.
6. Forms of Writs to be altered by Order in Council.

Transfer of Property on trust for Consolidated Fund.

7. Discontinuance of existing Courts and Offices.

8. Short Title of Act.

A

# B I L L

TO

## Supply Means towards defraying the Expenses of providing Courts of Justice and Offices belonging to the same.

WHEREAS large Sums of Money have been and continue to be from Time to Time paid into the Bank of England to the Credit of the Accountant General of the Court of Chancery in England by the Suitors in that Court, and others, either for safe Custody during the Pendency of Litigation, or for the Purpose of the same being distributed or otherwise: And whereas such Sums are invested, or not, in Government Securities, for the Benefit of Persons interested therein, according as such Persons do or do not apply to the Court for such Investment to be made; but in consequence of the Disinclination or Neglect of such Persons to have such Monies invested there is always arising from such Deposits a large Balance of Cash in the Bank of England, herein-after referred to as the General Cash Balance, remaining uninvested and unemployed: And whereas Portions of such General Cash Balance have from Time to Time, under the Authority of Acts of Parliament, been invested in Government Securities in the Name of the Accountant General of the Court of Chancery, on account of the Public, and not for the Benefit of any particular Persons: And whereas the Investments so made are realized from Time to Time as the Exigencies of the Suitors require, and the Produce paid back to the Account of the General

Preamble.

Deposit of Monies with the Court of Chancery.

Option of Suitors to invest Deposits.

General Cash Balance of uninvested Deposits.

Power to invest Portion of General Cash Balance.

Application of Investments.

Application of Income of Investments of General Cash Balance.

Cash Balance: And whereas Portions of the Income arising from such Investments of the General Cash Balance have been applied to various Purposes from Time to Time directed by Parliament, and the Surplus of such Income was, from the Year One thousand seven hundred and sixty-eight up to the Year One thousand eight hundred and fifty-two, invested and accumulated to the Credit of an Account intituled "Account of Securities purchased with surplus Interest arising from "Securities carried to Account of Monies placed out for the Benefit "and better Security of the Suitors of the High Court of Chancery," herein-after referred to as the "Surplus Interest Account;" but since the Year One thousand eight hundred and fifty-two such Surplus, in pursuance of divers Acts of Parliament, has been carried over to the "Suitors Fee Fund Account," herein-after mentioned: And whereas there is now standing to the Credit of the "Surplus Interest Account" a Sum of Stock herein-after referred to as the "Surplus Interest Fund," consisting of the following Sums, that is to say, Five hundred and seventy thousand seven hundred Pounds Sixteen Shillings and One Penny Bank Three Pounds per Centum Annuities, Seven hundred and twenty thousand nine hundred and four Pounds Three Shillings and Fivepence Reduced Annuities, and Twenty-four Pounds Six Shillings New Three Pounds per Centum Annuities, and Four Shillings and Elevenpence East India Stock, making in the whole One million two hundred and ninety-one thousand six hundred and twenty-nine Pounds Ten Shillings and Fivepence of such Annuities and Stock: And whereas by an Act passed in the Session holden in the Third and Fourth Years of the Reign of King William the Fourth, Chapter Ninety-four, an Income Account, called the "Suitors Fee Fund Account," was created, and it was by the said Act provided, on the one hand, that certain Fees and other Sources of Income, including the Surplus hitherto carried over to the "Surplus Interest Account," should form Part of the "Suitors Fee Fund," while, on the other, it was enacted that certain Salaries, Retiring Pensions, and Compensation Allowances should be paid out of such Fund; and the same Act further directed that it should be lawful for the Lord Chancellor from Time to Time to direct that any Excess of Income of the said "Suitors Fee Fund," after satisfying all Charges thereon, should be carried over to a Capital Account, intituled "Account of Monies placed out to provide for "the Officers of the High Court of Chancery," herein-after referred to as the "Surplus Fee Fund Account," and be invested in Stock, with a Reservation that, in the event of the "Suitors Fee Fund" in any Year being insufficient to meet the Charges thereon, the "Surplus Fee Fund," or a sufficient Portion thereof, should be sold, and the Produce of such Sales applied in making good the Deficiency in the "Suitors Fee Fund:" And whereas there is now standing in the Books of the Governor and Company of the Bank of

Surplus Interest Fund of 1,291,629*l.* 10*s.* 5*d.* Stock consists of the Surplus of such Income.

Surplus Fee Fund of 201,028*l.* 2*s.* 3*d.* Stock.

of England, in the Name of the Accountant General of the Court of Chancery, to the "Surplus Fee Fund Account," a Sum of Two hundred and one thousand and twenty-eight Pounds Two Shillings and Threepence Bank Three Pounds per Centum Annuities, hereinafter referred to as the "Existing Surplus Fee Fund," and it is possible that further Sums may, in pursuance of Orders of the Lord Chancellor, be carried over to the said Account, and be invested: And whereas a Bill has been introduced into Parliament in the present Session by the Short Title of "The Courts of Justice Building Act, 1862," and the Object of such Bill is to purchase a Site capable of affording Accommodation to the Superior Courts of Law and Equity, or some of them, the Probate and Divorce Courts, the High Court of Admiralty, and the various Offices belonging to the same, and to such other Courts and Offices as may be required, and to erect suitable Buildings for such Courts and Offices; and it is by the said Bill provided that the Expenses to be incurred in carrying into effect the said Courts of Justice Building Act are to be defrayed out of Monies to be provided by Parliament, and it is expedient that the several Funds herein-before described as the "Surplus Interest Fund" and the "Existing Surplus Fee Fund" should be appropriated towards replacing the Sums so provided: And whereas the Capital of the "Surplus Interest Fund" is liable to make good any Deficiency that may arise in the event of the General Cash Balance being insufficient to satisfy the Claims of the Suitors thereon, and the "Surplus Fee Fund" is liable, as herein-before mentioned, to make good any Deficiency in the Suitors Fee Fund for Payment of the Charges thereon: And whereas it is expedient that Provision should be made for making good any Deficiency that may arise in the Funds herein-before in that Behalf mentioned by Means of Sales of the "Surplus Interest Fund" and "Surplus Fee Fund:" Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Object of Act.

Courts of Justice Building Act.

Expediency of appropriating Funds to Purposes of Act.

*Appropriation of Funds.*

1. Whenever any Monies may be voted by Parliament towards defraying the Expenses to be incurred in carrying into effect the "Courts of Justice Building Act, 1862," there shall be paid, in manner herein-after mentioned, out of the Produce of the "Surplus Interest Fund" and "Surplus Fee Fund," so far as such Funds extend, into the Receipt of Her Majesty's Exchequer, to be carried to and form Part of the Consolidated Fund of the United Kingdom, such Sums as may from Time to Time be paid out of the Amount of Monies so provided by Parliament.

Appropriation of Funds to Payment of Expenses.

Mode of dealing with appropriated Funds.

2. There shall from Time to Time be sold, under the Order of the Lord Chancellor, such Portions of the "Surplus Interest Fund" and "Surplus Fee Fund," or either of them, as will produce the Amount of Cash specified in any Warrants from Time to Time issued by the Commissioners of Her Majesty's Treasury as having been so paid out, and the Monies arising from every such Sale shall be received by One of the Cashiers of the Bank of England, and be paid by him to the Account of Her Majesty's Exchequer at the Bank of England.

Indemnity to General Cash Balance against Loss.

3. *If the General Cash Balance is at any Time insufficient to satisfy the Claims of the Suitors thereon, such Deficiency shall, to the Extent to which the "Surplus Interest Fund" would have been available, be made good out of the Consolidated Fund.*

Compensation for Loss of Income of Surplus Interest Fund and Surplus Fee Fund.

4. *If in any Year after the passing of this Act the Suitors Fee Fund, including the Balance for the Time being standing to the Account of the said Fund, is insufficient to pay the current Charges thereon, the Deficiency, so far as it has been caused by the Sales of the Funds hereby authorized to be sold, shall be made good, as follows:*

*Firstly. Out of any Stock for the Time being standing to the "Surplus Fee Fund Account" beyond the "Existing Surplus Fee Fund;" and*

*Secondly. Out of the Consolidated Fund, or the growing Produce thereof:*

*Provided, firstly, that the Sum so to be paid in any Year out of the Consolidated Fund, for the Purpose of making good such Deficiency, shall be reduced by the Amount that may from Time to Time have ceased to be payable in respect of the Salary of the Master of Reports and of the Retiring Pensions of the released Masters in Chancery and their Chief Clerks, and of any Compensation Allowances existing at the Time of the passing of this Act, and now by Law payable out of the "Suitors Fee Fund;" and secondly, that the Provisions made by this Act as to the Indemnification by the Consolidated Fund of any Deficiency in the "Suitors Fee Fund" are not to extend to supplying any Deficiency caused by any Alteration which may be made in any of the Fees payable to the "Suitors Fee Fund," unless such Alteration is approved by the Commissioners of Her Majesty's Treasury:*

*The Payments required by this Section to make good the above-mentioned Deficiency shall be made on the First Day of February,*

*on*

*on the First Day of May, on the First Day of August, and on the First Day of November in every Year, into the Bank of England, to the Credit of the Accountant General of the Court of Chancery, to the Credit of the "Suitors Fee Fund," the first of such Payments to be made on such One of the said Days as may first happen after any such Deficiency has arisen.*

*Saving of Jurisdiction on Removal of Courts.*

Saving of Jurisdiction of Courts.

**5.** Notwithstanding their Removal to the Site provided by the Courts of Justice Building Act, 1862, the Superior Courts of Law and Equity may exercise the same Jurisdiction and enjoy the same Rights and Privileges as they have hitherto exercised and enjoyed, and all Statutes, Charters, and other Instruments wherein Westminster is described or referred to as being the Locality of the said Courts shall be construed as if the Site provided by the said Courts of Justice Building Act, 1862, had been described or referred to in the said Statutes, Charters, and other Instruments as the Locality of the said Courts, instead of Westminster.

Forms of Writs to be altered by Order in Council.

**6.** Her Majesty may by Order in Council make any Alterations that may be thought expedient for the Purpose of adapting the Forms of testing Writs and other Instruments, and the Forms themselves of Writs or other Instruments, in use in the said Courts, to the Change of Locality made by the said Courts of Justice Building Act, 1862.

*Transfer of Property on trust for Consolidated Fund.*

Discontinuance of existing Courts and Offices.

**7.** Whereas the Courts, Offices, and Premises authorized to be erected by "The Courts of Justice Building Act, 1862," will, when completed, render unnecessary the Occupation for Purposes connected with the Administration of Justice of the Buildings, Land, and Premises described in the Schedule hereto; and it is expedient that such last-mentioned Buildings, Lands, and Premises should be appropriated in manner herein-after mentioned for the Benefit of the Public, and towards reimbursing to the Consolidated Fund the Value of such last-mentioned Buildings, Lands, and Premises, the Charges imposed upon it by virtue of this Act: Be it enacted, That whenever the Lord Chancellor certifies under his Hand to the Commissioners of Her Majesty's Treasury that Business hitherto conducted in the Premises described in the Schedule, or any Part of such Premises, has been transferred to any of the Buildings authorized to be erected under the Courts of Justice Building Act, 1862, and such Certificate has been filed (as it is hereby directed to be) in

the Report Office of the Court of Chancery, the following Consequences shall thereupon ensue; that is to say,

All the Buildings, Lands, and Premises firstly and secondly described in the said Schedule, or any of them, in respect of which such Certificate is given, with their actual and reputed Appurtenances, shall thereupon vest in the Commissioners of Her Majesty's Works and Public Buildings as incorporated by the Act of the Session of the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Twenty-eight, to be held by them for the Purposes of the last-mentioned Act, discharged from all subsisting Trusts declared, with respect thereto.

*Short Title of Act.*

Short Title of Act.

8. This Act may be cited for all Purposes as "The Courts of Justice Money Act, 1862."

SCHE-

# SCHEDULE.

*Buildings and Lands firstly described.*

The Buildings in Chancery Lane, with the Sites on which the same are erected, known or formerly known as the "Six Clerks Offices," and comprising the Enrolment Office, and the Offices of the Accountant General of the Court of Chancery, the Registrar of the Court of Chancery, and the Record and Writs Clerks of the Court of Chancery, and all other the Lands and Hereditaments, if any, purchased or acquired in pursuance of the following Acts of Parliament, or any of them; that is to say,

"Six Clerks Offices." 14 G. 3. c. 43. 15 G. 3. c. 56. 5 & 6 Vict. c. 103.

The Act of the Fourteenth Year of King George the Third, Chapter Forty-three:

The Act of the Fifteenth Year of King George the Third, Chapter Fifty-six:

The Act of the Fifth and Sixth Years of Her present Majesty, Chapter One hundred and three,

with all actual and reputed Appurtenances to the above-mentioned Hereditaments.

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*Buildings and Lands secondly described.*

The Buildings in Southampton Buildings, with the Sites on which the same are erected, known or formerly known as the "Masters Offices," and all other the Lands and Hereditaments, if any, purchased or acquired in pursuance of the Act of the Thirty-second Year of King George the Third, Chapter Forty-two, with all their actual and reputed Appurtenances.

"Masters Offices." 32 G. 3. c. 42.

A

# BILL

To supply Means towards defraying the Expenses of providing Courts of Justice and Offices belonging to the same.

(*Prepared and brought in by Mr. Cowper, Mr. Peel, Mr. Attorney General, and Mr. Solicitor General.*)

*Ordered, by* The House of Commons, *to be Printed,* 18 *March* 1862.

[Bill 46.]

*Under 2 oz.*

A

# BILL

INTITULED

## An Act for removing Doubts as to the Powers of the Courts of the Church of Scotland, and extending the Powers of the said Courts.

WHEREAS it would much conduce to the Interests of Religion were Ministers of Parishes against whom a Libel has been found relevant for alleged immoral Conduct, or for alleged Error in Doctrine, to abstain from exercising Ministerial Functions until the said Libel has been disposed of by final Sentence; but Doubts exist whether the Right of the Courts of the Church of Scotland to require and enjoin Ministers of Parishes so to abstain from Ministerial Functions in such Circumstances may not be liable to legal Impediment, and it is desirable to remove such Doubts: And whereas it is expedient to declare the said Right, and farther to declare the Right of the Presbyteries of the said Church to make Provision for supplying the Ordinances of Religion in any Parish where the said Ordinances have ceased to be performed by the Minister thereof: And whereas it is expedient to give Facilities to Parties in any Cause before Presbyteries and other Church Courts for obtaining the Attendance of Witnesses and the Production of Evidence in Proceedings before the same: Be it therefore declared and enacted by the Queen's most Excellent Majesty, Preamble.



by

by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

When a Libel found relevant against a Minister, Presbytery may require and enjoin him to abstain from the Discharge of his Functions.

**1.** Whenever any Presbytery or other Court of the Church of Scotland shall have found a Libel relevant, charging the Minister of any Parish with immoral Conduct or with Error in Doctrine, and shall have resolved to proceed to a Proof of the said Libel, it is hereby declared and enacted that it is and shall be held to be the Right of the said Presbytery to pronounce a Deliverance requiring and enjoining such Minister to abstain from the Exercise and Discharge of all Ministerial Functions of his Office as Minister of the Parish until the Libel shall have been fully investigated and finally disposed of; and in the event of an Appeal against such Deliverance the same shall continue in force until the same shall have been recalled by the Court of Appeal; and the Ordinances of Religion in the said Parish shall, so long as such Deliverance is unrecalled, be administered in the same Way as if the Parish were vacant by the Decease of the Minister thereof: Provided always, that nothing herein contained shall affect the Right of such Minister to his Stipend.

When a Minister has become insane, Presbytery to appoint an Assistant.

**2.** When, in the course of any Judicial Process affecting the Status of a Minister, or on the Representation of any Party having Interest, it has been established to the Satisfaction of a Presbytery or other Superior Court of the Church that the Minister of any Parish is insane, and thereby disabled from discharging the Duties of his Office, it is hereby further declared and enacted, that it is and shall be the Right of the Presbytery, unless an Arrangement for the Purposes after mentioned shall have been made on behalf of the said Minister to the Satisfaction of the Presbytery, to appoint a qualified Assistant to perform the Duties of the Charge until the said Minister shall be enabled to resume the same, or until the Parish shall be declared vacant, and at the same Time to apportion and fix, by their Deliverance appointing such Assistant, an Allowance out of the Stipend not exceeding One Half of the whole Proceeds of the Benefice, and which shall be payable so long as such Assistant shall hold and continue to act on his Appointment by the Presbytery; and such Deliverance, when duly intimated to the Heritors or others liable in Payment of the Stipend, shall be equivalent to a legal and completed Assignation by the Minister to such Assistant of the Portion of the Stipend specified in the Deliverance.

Provision in case of a Minister being suspended.

**3.** When, by their final Sentence upon a Libel, a Presbytery or other Church Court shall suspend a Minister from the Discharge of the Duties of his Office for a Term specified in the said Sentence, it

it is hereby further declared and enacted, that it is and shall be held to be the Right of the Presbytery to appoint a qualified Assistant to discharge the said Duties, and to apportion and fix an Allowance to such Assistant out of the Stipend not exceeding One Half of the whole Proceeds of the Benefice, and which shall be payable so long as such Assistant shall hold and continue to act on his Appointment by the Presbytery; and such Sentence, when duly intimated to the Heritors or others liable in Payment of the Stipend, shall be equivalent to a legal and completed Assignation by the Minister to such Assistant of the Proportion of the Stipend specified in the Sentence.

Parties may apply to a Sheriff for a Diligence against Witnesses and Havers.

**4.** When, in any Judicial Process depending before a Presbytery or other Superior Church Court, such Court shall have allowed a Proof, it shall be competent to the Parties in the Cause, or any of them to whom such Proof shall have been allowed, to apply to the Sheriff or Sheriff Substitute of the County within the Bounds of which the Presbytery or other Superior Church Court shall have held their Meeting, when such Proof was allowed, for Warrant to cite any Witnesses or Havers whom such Party or Parties may propose to examine to appear before such Presbytery or other Church Court at a Time and Place to be specified in the Application; and the Sheriff, on Production to him, along with the said Application, of a duly certified Extract of the Deliverance allowing a Proof, shall grant Warrant of Citation as craved, which Warrant and Citation following thereon shall be held a legal Warrant and Citation to compel the Attendance of the Witnesses or Havers to whom the same shall apply, in Terms of such Warrant and Citation; and all such Warrants shall have the same Force and Effect in any other Sheriffdom as in that in which they were originally issued, the same being first indorsed by the Sheriff Clerk of such other Sheriffdom, who is hereby required to make and date such Indorsation; and such Warrant and Citation shall be enforceable by the same Procedure or Remedies as are competent in the Case of a Warrant granted by the Sheriff for Citation of Witnesses or Havers to appear before his own Court.

ChurchCourt may appoint a Person to dictate the Evidence of Witnesses, or appoint a Shorthand Writer to take it down.

**5.** Where in any Cause depending before a Presbytery or other Superior Court of the Church a Proof shall have been allowed, it shall be lawful and competent for such Court to appoint a qualified Person being an Advocate, Writer to the Signet, Solicitor before the Supreme Courts, or a Procurator duly entered as a Practitioner in any Sheriff Court in Scotland, of not less than Three Years standing, to sit with them for the Purpose of dictating to the Clerk of Court the Evidence given by the Witnesses examined in the Course of the Proof, and the Oath De fideli administratione officii shall be administered by the Moderator to any Person so appointed; and it shall be lawful

and competent for such Court, if it see fit, to appoint the Evidence of the Witnesses examined in the course of such Proof to be taken down by a Writer skilled in Shorthand Writing, to whom the Oath De fideli administratione officii shall be administered; and the said Shorthand Writer shall afterwards, and within such Time as may be fixed by the Court, write out in full the Evidence so taken down by him in Shorthand; and the extended Notes, so written out, certified by the Moderator and Clerk of Court to be correct, shall be the Record of the oral Evidence in the Cause: Provided always, that nothing herein contained shall prevent any Church Court, if it see fit, from taking down and recording the Evidence adduced in any Cause, according to the Form hitherto in use.

# Courts of the Church of Scotland.

A

# B I L L

INTITULED

An Act for removing Doubts as to the Powers of the Courts of the Church of Scotland, and extending the Powers of the said Courts.

(*Brought from the Lords* 8 *July* 1862.)

*Ordered, by* The House of Commons, *to be Printed,* 8 *July* 1862.

[Bill 197.] *Under* 1 *oz.*

A

# B I L L

TO

## Remove Doubts concerning, and to amend the Law relating to, the private Estates of Her Majesty, Her Heirs and Successors.

WHEREAS by the Fifth Section of the Act passed in the First Year of the Reign of Her Majesty Queen Anne, Chapter Seven, and intituled "An Act for the better "Support of Her Majesty's Household, and of the Honour and "Dignity of the Crown," it was enacted, that every Grant, Lease, or other Assurance which from and after the Twenty-fifth Day of March One thousand seven hundred and two should be made or granted by Her said Majesty, Her Heirs or Successors, Kings or Queens of this Realm, under the Great Seal of England, Exchequer Seal, Seals of the Duchy and County Palatine of Lancaster, or any of them, or by Copy of Court Roll, or otherwise howsoever, of any Manors, Messuages, Lands, Tenements, Rents, Tithes, Woods, or other Hereditaments, (Advowsons of Churches and Vicarages only excepted,) within the Kingdom of England, Dominion of Wales, or Town of Berwick-upon-Tweed, or any of them, or any Part thereof, then belonging or thereafter to belong to Her Majesty, Her Heirs

Preamble.

1 Anne, c. 7. s. 5.

or Successors, or to any other Person or Persons in trust for Her Majesty, Her Heirs or Successors, in possession, reversion, remainder, use, or expectancy, whether the same were or should be in right of the Crown of England, or as Part of the Principality of Wales or of the Duchy or County Palatine of Lancaster, or otherwise howsoever, to any Person or Persons, Body Politic or Corporate whatsoever, whereby any Estate or Interest whatsoever in Law or in Equity should or might pass from Her Majesty, Her Heirs or Successors, should be utterly void and of none Effect, unless such Grant, Lease, or Assurance should be made for some Term or Estate not exceeding Thirty-one Years or Three Lives, or for some Term of Years determinable on One, Two, or Three Lives, and unless such Grant, Lease, or Assurance respectively should be made to commence from the Date of making thereof, and if such Grant, Lease, or Assurance should be made to take effect in reversion or expectancy, that then the same, together with the Estate or Estates in possession of and in the Premises therein contained, should not exceed Three Lives or the Term of Thirty-one Years in the whole; and it was by Section Seven of the same Act enacted, that all Gifts, Grants, Alienations, Leases, and Assurances whatsoever to be had or made of any the said Manors, Messuages, Lands, Tenements, Rents, Tithes, or other Hereditaments, or of any of the Revenues therein mentioned, or Branches, or any Part thereof, contrary to the Provisions of the now reciting Act, or any of them, should be null and void without any Inquisition, Scire facias, or other Proceeding to determine or make void the same: And whereas by the Act passed in the First Year of the Reign of His Majesty King George the Third, Chapter One, and intituled "An "Act for the Support of His Majesty's Household, and the Honour "and Dignity of the Crown of Great Britain," it was enacted, that the Revenue arising to His Majesty by Rents of Lands or for Fines of Leases of the same, or any of them, (except the Revenue of the Duchy of Cornwall,) should, from and immediately after the Demise of His then late Majesty King George the Second, be during His Majesty's Life carried to and made Part of the General Aggregate Fund established by the Act of the First Year of the Reign of His late Majesty King George the First, and be during the said Term issued and applied, in the Manner therein-after mentioned, to the Uses to which the said Fund was or should be made applicable: And whereas by the Act passed in the Thirty-fourth Year of the Reign of His Majesty King George the Third, Chapter Seventy-five, and intituled "An Act for the better Management of the Land Revenue "of the Crown, and for the Sale of Fee-farm and other Unimprove-"able Rents," further Provisions were made touching Grants, Leases, and other Assurances which should be made or granted by His Majesty, His Heirs or Successors, under the Great Seal, or Seal of the

1 Anne, c. 7. s. 7.

1 G. 3. c. 1.

34 G. 3. c. 75.

the Exchequer, or either of them, of any Manors, Messuages, Lands, Tenements, or Hereditaments, within the Kingdom of England and Dominion of Wales, or any of them, or any Part thereof then belonging or thereafter to belong to His Majesty, His Heirs or Successors, and being within the ordering and Survey of the Exchequer in England: And whereas by the Act passed in the Session of Parliament held in the Thirty-ninth and Fortieth Years of the Reign of His Majesty King George the Third, Chapter Eighty-eight, intituled "An Act "concerning the Disposition of certain Real and Personal Property of "His Majesty, His Heirs and Successors, and also of the Real and "Personal Property of Her Majesty and of the Queen Consort for the "Time being," it was enacted, that none of the Provisions or Restrictions contained in the said Acts of the First Year of Her said Majesty Queen Anne and the First and Thirty-fourth Years of the Reign of His then Majesty, should extend to any Manors, Messuages, Lands, Tenements, or Hereditaments, of whatsoever Tenure the same might be, which had at any Time theretofore been purchased by His Majesty, or should at any Time thereafter be purchased by His Majesty, His Heirs or Successors, out of any Monies issued and applied for the Use of His or Their Privy Purse, or with any other Monies not appropriated to any Public Service, or to any Manors, Messuages, Lands, Tenements, or other Hereditaments, of whatsoever Tenure the same might be, which had come to His Majesty, or should or might come to Him or His Heirs or Successors, by the Gift or Devise of, or by Descent or otherwise from any His, Her, or Their Ancestors, or any other Person or Persons not being Kings or Queens of this Realm; and it was thereby declared, that the Intent of that Enactment was that the same should operate to all Intents and Purposes as from the Birth of His then Majesty and by the same Act; certain Powers of Disposition were given to His Majesty, His Heirs or Successors, over such Manors, Messuages, Lands, Tenements, and Hereditaments as are therein mentioned as aforesaid, and other Provisions were thereby enacted concerning the same: And whereas by the Act passed in the Fourth Year of the Reign of His Majesty King George the Fourth, Chapter Eighteen, intituled "An Act concerning the Disposition of certain "Property of His Majesty, His Heirs and Successors," it was enacted, that all the Powers given to and vested in His Majesty, His Heirs and Successors, by the said Act of the Thirty-ninth and Fortieth George the Third, Chapter Eighty-eight, over the Manors, Messuages, Lands, Tenements, and Hereditaments purchased or to be purchased by Him or Them, or coming to Him or Them in manner in the same Act mentioned, and all other the Provisions of the same Act touching and concerning the same, should be and the same Powers and Provisions were by the now reciting Act extended to, and should be deemed, construed, and taken to extend and apply to all

39 & 40 G. 3. c. 88.

4 G. 4. c. 18.

Manors, Messuages, Lands, Tenements, and Hereditaments, whether of Freehold or Copyhold or Customary or Leasehold Tenure, whereof His Majesty, or any Person or Persons in trust for Him, at the Time of His Accession to the Crown of this Realm, or whereof His Heirs or Successors, or any Person or Persons in trust for Them, at the Time of Their respective Accessions to the Crown of this Realm, was, were, or should be seised and possessed, and which before such Accession He or They respectively might have legally granted, sold, given, or delivered: And whereas by the Fourth Section of the Act passed in the Session of Parliament held in the First and Second Years of the Reign of Her present Majesty Queen Victoria, Chapter Ninety-five, intituled "An Act to provide for the Payment of certain Pensions," after reciting the Seventh Section of the said Act of the First Year of Her Majesty Queen Anne, Chaper Seven, and that it was expedient to extend the said Provision to Ireland and Scotland, it was enacted, that the said Provision should be deemed and taken to extend to all Parts of the United Kingdom: And whereas it is doubtful whether the Provisions and Restrictions contained in the said Act of the First Year of Her Majesty Queen Anne may not be held to have been by the said Act of the First and Second Years of Her present Majesty Queen Victoria Chapter Ninety-five, extended to the private Estates of Her Majesty, Her Heirs or Successors: And whereas it is expedient that such Doubts should be removed, and that such Provisions should be made concerning the private Estates of Her Majesty, Her Heirs or Successors, as are herein-after contained: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1 & 2 Vict. c. 95. s. 4.

Doubts as to the Effect of 1 & 2 Vict. c. 95.

Expediency of removing such Doubts and amending the Law.

Interpretation Clause.

1. That in the Construction of this Act the Expression "private "Estates of Her Majesty, Her Heirs or Successors," shall mean (unless controlled or confined to a more limited Sense by express Words or the Context) any Manors, Messuages, Lands, Tenements, Leases, and Hereditaments, and other Real or Heritable Property and Estate, of whatsoever Tenure the same may be, whether situate or arising in England, Scotland, or Ireland, or in any other Part of Her Majesty's Dominions, which have at any Time heretofore been purchased or acquired by Her Majesty, or shall at any Time hereafter be purchased or acquired by Her Majesty, Her Heirs or Successors, out of any Monies issued and applied for the Use of Her or Their Privy Purse, or with any other Monies not appropriated to any Public Service, and any Manors, Messuages, Lands, Tenements, Leases, and Hereditaments, and other Real or Heritable Property and Estate, of whatsoever Tenure the same may be, whether situate or arising in England, Scotland, or Ireland, or in any other Part of Her Majesty's Dominions which have come to Her Majesty, or shall

or

or may come to Her Majesty, or Her Heirs or Successors, by the Gift or Devise or Disposition of, or by Descent, Inheritance, or Succession, or otherwise, from any of Her or Their Ancestors, or any other Person or Persons not being Kings or Queens of this Realm, and any Manors, Messuages, Lands, Tenements, Leases, and Hereditaments, and other Real or Heritable Property and Estate, of whatsoever Tenure the same may be, and whether situate or arising in England, Scotland, or Ireland, or in any other Part of Her Majesty's Dominions, which did or shall belong to Her Majesty, or Her Heirs or Successors, or to any Person or Persons in trust for Her or Them, at the Time of Her or their respective Accessions to the Crown of this Realm, and which before such Accession She or They respectively might have legally granted, sold, given, devised, disponed, or conveyed.

Restrictions of 1 Anne and 1 & 34 G. 3. not to extend to the private Estates of the Sovereign.

**2.** None of the Provisions or Restrictions contained in the said Acts of the First Year of Her Majesty Queen Anne and the First and Thirty-fourth Years of His Majesty King George the Third, or in any other Act or Acts of Parliament relating to any Manors, Messuages, Lands, Tenements, Leases, or Hereditaments, or other Real or Heritable Property or Estate vested in or belonging to Her Majesty, Her Heirs or Successors, in right of the Crown of this Realm, do or shall extend to the private Estates of Her Majesty, Her Heirs or Successors.

Leasehold Estates (other than in Scotland) to be vested in Trustees.

**3.** Such private Estates of Her Majesty, Her Heirs or Successors, situate or arising in any Part of Her Majesty's Dominions, except Scotland, as are or shall be of Leasehold Tenure, shall be vested in some Trustee or Trustees for Her Majesty, Her Heirs and Successors respectively, from Time to Time to be respectively named or appointed by Instrument in Writing under the Sign Manual of Her Majesty, Her Heirs and Successors respectively, in the same Manner as if the Second Section of the said Act of the Thirty-ninth and Fortieth Years of His Majesty King George the Third, Chapter Eighty-eight, had extended to all such Estates.

Private Estates of the Sovereign in Scotland held under a Superior or in Lease to be vested in Trustees.

**4.** Such private Estates of Her Majesty, Her Heirs or Successors, situate or arising in Scotland, as are or shall be held feudally directly under the Crown as Superior, may lawfully be held by Her Majesty, Her Heirs or Successors, of and under Herself or Themselves as Sovereign or Sovereigns of this Realm and Feudal Superiors, and the dominium utile thereof shall not become ipso facto consolidated with the dominium directum; and such private Estates of Her Majesty, Her Heirs or Successors, situate or arising in Scotland, as are or shall be held feudally under a Subject Superior, or as are or shall be held

in Lease, shall be vested in some Trustee or Trustees for Her Majesty Her Heirs and Successors respectively, from Time to Time to be respectively named or appointed by Instrument in Writing under the Sign Manual of Her Majesty, Her Heirs or Successors respectively, in the same Manner as if the Second Section of the said Act of the Thirty-ninth and Fortieth Years of His Majesty King George the Third, Chapter Eighty-eight, had extended to all such Estates.

Testamentary Disposition of the private Estates of the Sovereign other than in Scotland.

**5.** The private Estates of Her Majesty, Her Heirs or Successors, situate or arising in any Part of Her Majesty's Dominions (except Scotland), may be disposed of by Her Majesty, Her Heirs or Successors, in manner provided by the Fourth Section of the said Act of the Thirty-ninth and Fortieth Years of His Majesty King George the Third, Chapter Eighty-eight: Provided always, that a Will or other Testamentary Disposition by Her Majesty, Her Heirs or Successors, of or concerning any such private Estates as aforesaid, shall not require Publication; and every such Will or Testamentary Disposition shall be valid and effectual, if signed by the Testator or Testatrix, or by some other Person in His or Her Presence, and by His or Her Direction, in the Presence of Two Witnesses: Provided also, that every Will or other Testamentary Disposition by Her Majesty, Her Heirs or Successors, of any such private Estates as aforesaid, made under the Authority of this Act and of the said Act of the Thirty-ninth and Fortieth Years of His Majesty King George the Third Chapter Eighty-eight, or either of them, and whether made before or after the passing of this Act, shall be constued with reference to the Property comprised in such Will or Testamentary Disposition, to speak and take effect as if it had been executed immediately before the Death of the Testator or Testatrix, unless a contrary Intention shall appear by the Will or other Testamentary Disposition.

Disposition of the private Estates of the Sovereign in Scotland.

**6.** The private Estates of Her Majesty, Her Heirs or Successors situate or arising in Scotland, may be disposed of by Her Majesty, Her Heirs or Successors, by Dispositions or Conveyance, either special or general granted either mortis causâ or inter vivos; and all Dispositions, Conveyances, Deeds of Appointment, Commissions, Powers of Attorney, Wills, Deeds of Settlement, and other Deeds or Instruments to be made or granted by Her Majesty, Her Heirs or Successors, of or relating to the Private Estates of Her Majesty, Her Heirs or Successors, situate or arising in Scotland, shall be valid and effectual, although not executed according to the Forms of the Law of Scotland, if the same shall be under the Sign Manual attested by Two or more Witnesses; and every such Disposition or Conveyance, if granted mortis causâ shall be valid and effectual, whether the same shall be under the Sign Manual as aforesaid, or shall be signed by some

some other Person in the Presence of the Granter, and by His or Her Direction in the Presence of Two or more Witnesses, who shall attest the same, although the same shall not be executed according to the Forms of the Law of Scotland.

Descent of the private Estates of the Sovereign.

**7.** On the Demise of Her Majesty, Her Heirs or Successors, the private Estates of Her Majesty, Her Heirs or Successors, shall, subject and without Prejudice to any Disposition which shall have been made thereof under the Authority of the said Act of the Thirty-ninth and Fortieth Years of His Majesty King George the Third, Chapter Eighty-eight, or of this Act, descend or go in manner prescribed by, and (as to such Parts thereof as shall be Personal Estate or Freehold in Fee Simple) be subject to, the same Provisions and Restrictions as are referred to in the Fifth Section of the said Act of the Thirty-ninth and Fortieth Years of His Majesty King George the Third, Chapter Eighty-eight.

Private Estates of the Sovereign to be subject to Taxes.

**8.** The private Estates of Her Majesty, Her Heirs or Successors, shall be subject to all such Taxes, Rates, Duties, Assessments, and other Impositions, Parliamentary and Parochial, as the same would have been subject to if the same had been the Property of any Subject of this Realm; and all such Rates, Taxes, Assessments, and Impositions shall, so long as such private Estates shall be vested in Her Majesty, Her Heirs or Successors, or in any Person or Persons in trust for Her Majesty, Her Heirs or Successors as aforesaid, be ascertained, rated, assessed or imposed thereon in the same Manner and Form in all respects as if the same Estates were the absolute and beneficial Estate of any of Her Majesty's Subjects; but nevertheless such Rates, Taxes, Assessments, and Impositions shall be paid and payable in manner herein-after directed, and not otherwise.

Taxes to be paid out of the Privy Purse.

**9.** So long as the private Estates of Her Majesty, Her Heirs or Successors, shall remain vested in Her Majesty, Her Heirs or Successors, or in any Trustee or Trustees for Her Majesty, Her Heirs or Successors as aforesaid, freed and discharged from the Provisions and Restrictions aforesaid, all Taxes, Rates, Duties, Assessments, Impositions, Rents, and other annual Payments, Fines, and other Outgoings, which shall from Time to Time be charged and chargeable upon or be or become due and payable in respect of all or any of such private Estates, shall be paid and discharged out of the Privy Purse of Her Majesty, Her Heirs or Successors, and Accounts thereof shall from Time to Time be returned to the Person or Persons for the Time being executing the Office of Privy Purse of Her Majesty, Her Heirs or Successors, or to his or their Deputy, who shall by and out of any Monies in his or their Hands applicable for the Use of Her Majesty, Her Heirs or Successors, pay and discharge the same.

Extension of the Trustee Act, 1850, to the private Estates of the Sovereign (except in Scotland), and to the Personal Estate of the Sovereign.

**10.** The Trustee Act, 1850, shall extend to a Trustee or Trustees of the private Estates of Her Majesty, Her Heirs or Successors, situate or arising in any Part of Her Majesty's Dominions, except Scotland, and to any Trustee or Trustees of any Personal Estate of Her Majesty, Her Heirs or Successors, and any Petition or other Proceeding for obtaining the Benefit of that Act for or on behalf of Her Majesty, Her Heirs or Successors, shall be by and in the Name or Names of any Person or Persons authorized in that Behalf by Her Majesty, Her Heirs or Successors, by any Instrument in Writing under the Sign Manual.

Provision as to legal Proceedings and Trust Estates in Scotland.

**11.** All Suits and Actions, either Real or Personal, respecting the private Estates of Her Majesty, Her Heirs and Successors, in Scotland, and which may not be vested in a Trustee or Trustees, may be sued, in Scotland, on behalf of Her Majesty, Her Heirs and Successors, by and in the Name or Names of any Person or Persons to be from Time to Time for that Purpose appointed by Her Majesty, Her Heirs or Successors, by any Writing under the Sign Manual; and all Suits and Actions in Scotland respecting such private Estates at the Instance of other Parties may be sued and carried on by Summons or Process directed against such Person or Persons; and Her Majesty, Her Heirs or Successors, shall at all Times be entitled to require any Trustee or Trustees who may be vested in or possessed of any of the private Estates of Her Majesty, Her Heirs and Successors, in Scotland, to convey and dispone the same to Her Majesty, Her Heirs or Successors, or to any new Trustee or Trustees to be named or appointed by Her Majesty, Her Heirs or Successors, by Writing under the Sign Manual; and in the event of the Failure, Delay, or Inability of any such Trustee or Trustees so to convey or dispone the same, or in the event of the said Trustee or Trustees having died, it shall be competent for any Person or Persons authorized in that Behalf by Her Majesty, Her Heirs or Successors, by Writing under the Sign Manual, to apply by Petition to the Court of Session to declare that the Trust Conveyance subsists for the Benefit of Her Majesty, Her Heirs and Successors, and that Her Majesty, Her Heirs and Successors, are entitled to have the same transferred, and further to adjudge such private Estates in Scotland which shall be specified and described in the Petition from such Trustee or Trustees, or his or their Heirs or Heir, and to decern and declare the same to belong to Her Majesty, Her Heirs or Successors, or to such new Trustee or Trustees as may be so named and appointed; as the Case may be, and the Court of Session shall pronounce Decreet in Terms of the Prayer of such Petition, and such Decreet shall be held to be and shall have the Effect of a valid Conveyance and Disposition in due and usual Form of such private Estates as shall be specified and described in the Decreet in favour of

of Her Majesty, Her Heirs and Successors, or of such Trustee or Trustees, as the Case may be, and it shall be competent to register such Decreet in the General or Particular Register of Sasines in Terms of and to the Effect authorized by the "Titles to Lands (Scotland) Act, 1858," and the "Titles to Lands (Scotland) Act, 1860."

Saving of the Rights and Remedies of the Sovereign.

**12.** Provided that nothing in this Act contained shall take away or interfere with any Right or Remedy by any Law or Statute competent to Her Majesty, Her Heirs or Successors, in regard to the private Estates of Her Majesty, Her Heirs or Successors, or to Her or Their Personal Estate, or in regard to any Trusts of such Estates respectively, or against any Trustee or Trustees, his or their Heirs, Executors, Administrators, and Assigns.

# Crown Private Estates.

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# BILL

To remove Doubts concerning, and to amend the Law relating to, the private Estates of Her Majesty, Her Heirs and Successors.

*(Prepared and brought in by The Lord Advocate, Mr. Attorney General, and Mr. Solicitor General.)*

*Ordered, by* The House of Commons, *to be Printed*, 12 *May* 1862.

[Bill 111.]

*Under 2 oz.*

A

# BILL

TO

## Extend to the Isle of Man the Provisions of the Act Eighteenth and Nineteenth Victoria, Chapter Ninety, as to the Payment of Costs to and by the Crown.

Preamble. 18 & 19 Vict. c. 90.

WHEREAS by the First and Second Sections of an Act passed in the Session of Parliament held in the Eighteenth and Nineteenth Years of the Reign of Her present Majesty, Chapter Ninety, it was enacted that in all Informations, Actions, Suits, and other legal Proceedings to be thereafter instituted before any Court or Tribunal whatever in the United Kingdom of Great Britain and Ireland, by or on behalf of the Crown, against any Corporation or Person or Persons, in respect of any Lands, Tenements, or Hereditaments, or of any Goods or Chattels belonging or accruing to the Crown, the Proceeds whereof, or the Rents or Profits of which said Lands, Tenements, or Hereditaments by any Act then in force or thereafter to be passed were to be carried to the Consolidated Fund of Great Britain and Ireland, or in respect of any Sum or Sums of Money due and owing to Her Majesty by virtue of any Vote of Parliament for the Service of the Crown, or of any Act of Parliament relating to the Public Revenue, Her Majesty's Attorney General, or in Scotland the Lord Advocate, should be entitled to recover Costs

 for

for and on behalf of Her Majesty, where Judgment shall be given for the Crown, in the same Manner and under the same Rules, Regulations, and Provisions as were or might be in force touching the Payment or Receipt of Costs in Proceedings between Subject and Subject, and that such Costs should be paid into the Exchequer, and should become Part of the Consolidated Fund; and it was also enacted, that if in any such Information, Action, Suit, or other Proceeding Judgment should be given against the Crown, the Defendant or Defendants should be entitled to recover Costs in like Manner and subject to the same Rules and Provisions as though such Proceeding had been had between Subject and Subject; and that it should be lawful for the Commissioners of Her Majesty's Treasury and they were thereby required to pay such Costs out of any Monies which might be thereafter voted by Parliament for that Purpose: And whereas it is expedient that the Provisions of the said Act should be extended to the Isle of Man: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Sects. 1. and 2. of Act 18 & 19 Vict. c. 90. to apply to the Isle of Man.

**1.** The First and Second Sections of the said recited Act shall extend and apply to the Isle of Man; and the Words "Her Majesty's Attorney General" contained in the same Act shall, as regards Informations, Actions, Suits, and other legal Proceedings in the Isle of Man, be construed to mean Her Majesty's Attorney General for the Isle of Man.

Except in regard to existing Suits.

**2.** Provided always, That nothing contained in the recited Act or in this Act shall apply to any Information, Action, Suit, or other Proceeding filed or commenced before the *passing of this Act.*

# Crown Suits (Isle of Man).

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# B I L L

To extend to the Isle of Man the Provisions of the Act Eighteenth and Nineteenth Victoria, Chapter Ninety, as to the Payment of Costs to and by the Crown.

(*Prepared and brought in by Mr. Peel and Mr. Chancellor of the Exchequer.*)

*Ordered, by* The House of Commons, *to be Printed*, 6 *March* 1862.

[Bill 30.]

11 *April* 1862. 25 Vict.

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# BILL

TO

## Continue certain Duties of Customs and Inland Revenue for the Service of Her Majesty, and to grant, alter, and repeal certain other Duties.

Most Gracious Sovereign,

WE Your Majesty's most dutiful and loyal Subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the necessary Supplies to defray Your Majesty's Public Expenses, and making an Addition to the Public Revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several Rates and Duties herein-after mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Grant of Duties specified in Schedules annexed.

**1.** There shall be charged, collected, and paid for the Use of Her Majesty, Her Heirs and Successors, the several Rates and Duties of Customs, Excise, Stamps, and Income Tax respectively specified and contained in the several Schedules marked respectively (A.), (B.), (C.), and (D.) to this Act annexed, and there shall be allowed the several

Drawbacks specified and contained in the said Schedules (A.) and (B.); and the said Rates, Duties, and Drawbacks shall respectively take effect at or from the respective Times, and shall continue to be charged, collected, paid, and allowed for and during the Periods respectively specified or mentioned in that Behalf in this Act or in the said Schedules; and where no Time is so specified for the Commencement thereof, the same shall commence and take effect from and after the *passing of this Act*; and where no Period is so specified or limited for the Duration thereof, the same shall continue to be charged, collected, paid, and allowed respectively until Parliament shall otherwise order; and the said several Schedules shall be deemed to be Part of this Act.

Provisions of former Acts to apply.

**2.** All the Powers, Provisions, Clauses, Regulations, Allowances, and Exemptions, Forfeitures, Pains, and Penalties, contained in or imposed by any Act or Acts or any Schedule thereto, relating to any Duties or Drawbacks of the same Kind or Description as the several Rates or Duties or Drawbacks granted and allowed by this Act respectively, and in force at the Time of the passing of this Act and not hereby expressly repealed, or as regards the Income Tax in force on the Fifth Day of April One thousand eight hundred and sixty-two, shall respectively be in full Force and Effect with respect to the said Rates, Duties, and Drawbacks by this Act granted respectively, so far as the same are or shall be applicable, in all Cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said last-mentioned Rates and Duties and the Allowance and Payment of the said Drawbacks respectively, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express Provisions of this Act, as fully and effectually to all Intents and Purposes as if the same had been herein repeated and specially enacted, mutatis mutandis, with reference to the Rates, Duties, and Drawbacks by this Act granted respectively.

Licences to Brewers to expire on 10th October in every Year.

**3.** All Licences to Brewers of Beer, whether for Sale or not, to be granted under this Act, shall expire on the *Tenth Day of October* in every Year, and shall be renewed yearly on Payment of the Duties chargeable for or in respect of such Licences respectively, according to the Provisions of this Act.

Brewer of Beer for Sale, before obtaining Licence, to make Decla-

**4.** Before any Licence shall be granted to any Brewer of Beer for Sale (other than a First Licence), such Brewer or his principal Servant under whose Direction or Inspection the Malt or Sugar herein-after mentioned shall have been brewed, shall make before a Justice of the Peace,

Peace, or before the proper Collector of Excise, or any other Officer of Excise empowered to grant Licences (who are hereby respectively authorized to receive the same), a Declaration in Writing under the Provisions of the Act passed in the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two, setting forth a true and just Account of the Number of Bushels of Malt and of the Number of Pounds Weight Avoirdupois of Sugar respectively used by such Brewer in the brewing of Beer within the previous Year ending on the *Tenth Day of October* immediately preceding the Application for such Licence; and if such Declaration shall be false or untrue in any Particular, the Person making the same shall be subject to the Pains and Punishment prescribed by the said last-mentioned Act: Provided always, that in no Case shall a Licence be granted to any such Brewer of Beer upon Payment of any less Amount of Duty than shall appear to be due according to the Entries made in pursuance of any Law in force in the Book or Paper delivered to such Brewer by the Officer of Excise for that Purpose.

Declaration under Provisions of 5 & 6 W.4. c. 62. of the Quantity of Malt and Sugar brewed during the previous Year.

**5.** Where the Amount of Duty chargeable upon any Licence to brew Beer for Sale shall exceed the Sum of Ten Pounds, such Licence may, if required, be granted upon Payment only of *a Moiety* of the Duty so chargeable, and in such Case the *other Moiety* of such Duty shall be paid on the *First Day of March* next after the Commencement of the Year for which such Licence shall have been granted, or in default thereof the Licence shall thereupon cease and determine, and be no longer in force.

When Licence of Brewer of Beer for Sale exceeds 10*l.*, it may be paid in Moieties.

**6.** If any Brewer of Beer for Sale shall die or become bankrupt, or shall discontinue the Trade and Business of a Brewer of Beer for Sale at any Time before the Expiration of his current Licence, it shall be lawful for the Commissioners of Inland Revenue to ascertain by such Means as they shall think fit, the Quantity of Malt and Sugar which such Brewer shall have used in the brewing of Beer in the Portion of the Year during which he shall have carried on Business under such Licence, and the Amount of Duty which would be payable for a Licence in respect of the Number of Barrels of Beer brewed from such Malt and Sugar, according to the Provisions of this Act; and if the Amount of Duty so ascertained shall be less than the Sum paid by such Brewer for his current Licence, the Commissioners shall cause the Difference to be repaid to such Brewer, or to the Executors or Assignees of any Brewer who shall die or become bankrupt.

On the Death of a Brewer, or on the Business being discontinued before Expiration of Licence, a proportionate Part of the Duty may be returned.

**7.** If any Person who shall have taken out a Licence as a Brewer of Beer for Sale for the First Time shall die, or become bankrupt, or discontinue the Business of a Brewer of Beer at any Time before the Expiration

Surcharge upon a Brewer's First Licence

to become payable immediately upon Death or Bankruptcy of the Brewer.

Expiration of such Licence, the further additional Sum which shall be chargeable under this Act in respect of such Licence shall become due and payable immediately thereupon, and shall be a Debt due to Her Majesty, Her Heirs and Successors, and be recoverable accordingly; and in the Case of any such Brewer who shall discontinue Business as aforesaid, Payment of such additional Sum may be demanded either verbally of such Brewer, or by Writing left at the Brewery, by the Supervisor of Excise of the District in which the Brewery shall be situated; and if the same shall not be paid within *Three* Days next after such Demand shall have been made, the Brewer shall forfeit a Penalty of *double* the Amount thereof; and in all the foregoing Cases the Stock of Beer, Malt, and Hops, and the Utensils and Machinery upon the Brewery Premises at the Time of such Death, Bankruptcy, or Discontinuance of Business, shall be and remain liable for the Payment of the said Sum of Money or Penalty, and are hereby made chargeable therewith, notwithstanding any Title or Conveyance by which they may be claimed.

Penalty for brewing Beer (not for Sale) without Licence, 10*l.*

8. Every Person who, after the *Tenth Day of October One thousand eight hundred and sixty-two*, shall intend to brew Beer not for Sale, shall, before he shall begin to brew Beer, take out a proper Licence in that Behalf under this Act; and if any Person shall brew or begin to brew Beer not for Sale without having taken out and having in force such Licence, he shall forfeit the Sum of *Ten Pounds*: Provided that no Person charged with the Commission of any such Offence shall be entitled to be acquitted thereof by reason of his proving that the Beer brewed by him was in fact brewed for some other Person or for Sale.

Occasional Licence may be granted to Victuallers to sell Beer, Spirits, &c., at such Time and Place as the Commissioners of Inland Revenue shall approve.

9. It shall be lawful for the Commissioners of Inland Revenue, whenever they shall consider it conducive to Public Convenience, Comfort, and Order, to authorize any Officer of Excise to grant to any Person who shall be duly authorized to keep a Common Inn, Alehouse, or Victualling House, and who shall have taken out the proper Excise Licences to sell therein Beer, Spirits, Wine, or Tobacco, an occasional Licence under this Act empowering him to sell the like Articles for which he shall have taken out such Licences as aforesaid at any such other Place, and for and during such Space or Period of Time, not exceeding *Three* consecutive Days at any One Time, as the said Commissioners shall approve, and as shall be specified in such occasional Licence; and any Person who shall have taken out such occasional Licence shall not be liable to any Penalty or Forfeiture whatever by reason or on account of his selling the Articles mentioned in the said Licence during the Time and at the Place specified therein: Provided that the said Licence shall not protect

protect any such Person in the Sale of any of the Articles herein mentioned, unless he shall at the Time of such Sale produce such Licence when requested to do so by any Officer of Excise, or by any Constable or Police Officer; nor shall any such Licence be granted for the Sale of any of the Articles herein mentioned on any Sunday, Christmas Day, or Good Friday, or on any Day appointed for a Public Fast or Thanksgiving.

Charging of Excise Duty on Sugar used in brewing deferred until 1st July 1863.

**10.** And whereas by an Act passed in the Nineteenth and Twentieth Years of Her Majesty's Reign, Chapter Thirty-four, a Duty of Excise was imposed on Sugar used in the brewing or making of Beer, and by an Act passed in the Twenty-fourth and Twenty-fifth Years of Her Majesty's Reign, Chapter Ninety-one, the charging of the said Duty was deferred until the First Day of July One thousand eight hundred and sixty-two, and it is expedient further to defer the same: Be it enacted, That the charging of the said Duty of Excise on Sugar used as aforesaid shall be further deferred until the *First Day of July One thousand eight hundred and sixty-three.*

Licences granted under 23 Vict. c. 27. and 23 & 24 Vict. c. 107. may be transferred as other Excise Licences in case of the Removal of the licensed Person.

**11.** The Provisions contained in the Twenty-first Section of the Act passed in the Sixth Year of the Reign of King George the Fourth, Chapter Eighty-one, relating to the Transfer of Excise Licences in the Case of the Removal of any Person from the House or Premises at which he shall be licensed under that Act, shall be and the same are hereby extended to Licences granted under the Act passed in the Twenty-third Year of the Reign of Her present Majesty, Chapter Twenty-seven, and the Act passed in the Twenty-third and Twenty-fourth Years of Her said Majesty's Reign, Chapter One hundred and seven respectively: Provided that no Licence granted under either of the Two last-mentioned Acts for the Sale of Foreign Wine by Retail to be consumed upon the Premises where the same shall be sold, shall be transferred by the Officers of Excise, unless the Assignee of such Licence shall be duly licensed to keep a Refreshment House, nor unless he shall produce to such Officers a Certificate from a Justice of the Peace acting for the City, Borough, Town, or Place in which the House and Premises are situated, that such Justice does not object to such Transfer being made, and provided that no such Licence so transferred shall authorize the Assignee to carry on the Business mentioned therein for a longer Period than *Five* Weeks from the Date of such Transfer, unless he shall in the meantime have qualified himself to become the Holder of a Licence of the like Kind according to the Provisions of the said respective Acts.

British Hops re-imported chargeable

**12.** British Hops re-imported or brought back into Great Britain or Ireland on or at any Time within *Six* Months after the *Sixteenth*

with Duty for Six Months after 16th Sept. 1862.

*Day of September One thousand eight hundred and sixty-two* shall be charged with the Duty now payable on the Importation of Hops; and no British Hops which shall have been re-imported or brought back into Great Britain or Ireland, and warehoused for Security of Duties of Customs previously to the said *Sixteenth Day of September*, shall be delivered within *Six* Months after that Day without Payment of the Duty of Customs now chargeable on the Importation of Hops.

Repeal of Prohibition on Extract of Hops.

**13.** The Prohibition of the Importation of Extracts and Essences of Hops and other Concentrations thereof, contained in the Third Section of the Customs Duties Consolidation Act, 1860, shall, on and after the *Sixteenth Day of September One thousand eight hundred and sixty-two*, cease.

9 G. 4. c. 18. granting Duties on Cards and Dice repealed.

**14.** From and after the *First Day of September One thousand eight hundred and sixty-two* the Act passed in the Ninth Year of the Reign of King George the Fourth, Chapter Eighteen, for repealing the Stamp Duties on Cards and Dice made in the United Kingdom, and granting other Duties in lieu thereof, and amending and consolidating the Acts relating to Cards and Dice and the Exportation thereof, shall be and the same is hereby repealed, save and except as to any Duties granted by the said Act and which shall be then unpaid and any Penalty which may have been incurred, which Duties and Penalties shall be recoverable as if this Act had not been made; and also save and except so far as relates to any Bond given in pursuance of the said Act, which Bond shall, notwithstanding this Act, continue in force until the Condition thereof shall have been performed and fulfilled; and from and after the said Day of *One thousand eight hundred and sixty-two* the Duty by this Act charged for and in respect of Playing Cards, and all the Clauses and Provisions relating thereto, shall commence and take effect.

Interpretation of Terms.

**15.** The Term "Cards," wherever the same shall be used in this Act, shall mean Playing Cards by this Act charged with Stamp Duty; the Term "Wrapper" shall mean a Paper Wrapper, Label, or Enclosure provided by the said Commissioners of Inland Revenue for containing, enclosing, or covering a Pack of Cards and denoting the Duty in respect thereof; and the Term "Pack of Cards" shall mean any Quantity or Number of Cards not exceeding Fifty-two.

The Duty to be denoted on the Wrapper.

**16.** The said Duty of *Threepence* by this Act chargeable on a Pack of Cards shall be denoted on the Wrapper of every Pack, which Wrapper

Wrapper the Commissioners of Inland Revenue shall provide with such Stamp or Device or Devices thereon for denoting the said Duty as they shall think fit; and the said Commissioners shall supply to any Person who shall be a Maker of Cards, and shall as such have a Licence in force for selling Cards, with any Quantities of such Wrappers on Payment of the Duties for the same; and no Cards shall be sold otherwise than in separate Packs, each Pack being enclosed in a Wrapper, the Stamp on which shall be at all Times uncovered and open to view, and which shall be securely fastened round or over the same by means of Wheat Flour Paste, or some other firmly adhesive Substance to be approved by the said Commissioners, and so and in such Manner that the Wrapper cannot be opened, or the Cards taken out without the Wrapper being destroyed; and if the Wrapper used by any Maker of Cards for enclosing any Cards sold by him shall not be fastened with proper and sufficient adhesive Substance as aforesaid, or bonâ fide in a secure Manner, and with the Stamp thereon open to view, according to the true Intent and Meaning of this Act, such Cards shall be deemed to be not enclosed in a Wrapper provided by the said Commissioners under this Act; and such Maker, and also any other Person selling such Cards, shall be subject and liable to the Penalties imposed by this Act for selling Cards not enclosed in Wrappers.

Cards to be sold in separate Packs enclosed in Wrappers.

**17.** The Commissioners of Inland Revenue, or any of their Officers authorized by them, shall grant to any Person who shall apply for it a Licence to sell Cards at any House to be specified therein, on Payment of the Duty for the same; every such Licence shall continue in force from the Day on which the same shall be granted until and upon the Day of then next following, and no longer.

Licences to sell Cards to be granted.

**18.** If any Person shall sell or offer for Sale any Cards without having a Licence in force for the same granted under this Act he shall forfeit *Twenty Pounds;* and any Person who shall sell Cards at any House or Place not specified in a Licence granted to him shall be deemed to be a Person selling Cards without having a Licence; and any Person who shall be found hawking or carrying about for Sale any Cards, whether enclosed in a stamped Wrapper or not, and who shall sell the same or offer the same for Sale at any Place for which he shall have no Licence, may be apprehended by any Constable or Officer of Inland Revenue, and taken before any Justice of the Peace, who shall hear and determine the Matter, and if upon Conviction of such Offence the Offender shall not immediately pay the Penalty in which he shall be convicted, he shall be committed to Prison for any Period not exceeding *Three Months* nor less than *One Month*,

Selling Cards without Licence, Penalty 20*l.*

Hawkers of Cards may be apprehended.

*Month*, unless the Penalty shall be sooner paid; and all Cards which he shall be found trading with or carrying about shall be forfeited, and delivered up to the Commissioners to be dealt with as Cards forfeited under this Act.

Selling Cards without stamped Wrappers.

**19.** If any Maker of Cards shall remove or send or deliver out any Cards from his House or Premises, or the House or Place in which they were made or completed (except for Exportation as allowed by this Act), the same not being in Packs enclosed in Wrappers in manner aforesaid; or if any Person, whether a Maker of Cards or not, and whether licensed or not, shall sell any Cards, not being a Pack of Cards enclosed in a Wrapper as by this Act is required, he shall forfeit, if he be a Maker of Cards, the Sum of *One hundred Pounds*, and if he be not a Maker of Cards, the Sum of *Twenty Pounds;* and moreover, for every Pack of Cards which any such Person shall sell or send or deliver out not enclosed in a Wrapper as aforesaid, he shall forfeit the further Sum of *Five Pounds;* and all Cards found in any House or Place whatever (except on the Premises of a licensed Maker specified in his Licence), which shall be kept or intended for Sale, or which shall be found on the Premises or in the Possession of any Person who shall sell Cards, and which shall not be in separate Packs enclosed in Wrappers as aforesaid, shall be forfeited; and the same, and also all Wrappers found in any House or Place whatsoever which shall have been used for enclosing Cards, and removed or got off therefrom, may be taken and carried away by any Officer of Inland Revenue, and be destroyed or otherwise disposed of as the Commissioners shall direct; and for the Purposes of such Seizure it shall be lawful for any such Officer, under the Authority of a Warrant for that Purpose specially granted by any Two of the Commissioners or any Justice of the Peace, to enter in the Day-time any House or Place in which there shall be Reason to suspect that any Cards not enclosed in stamped Wrappers, or any Wrappers that have been used as aforesaid, are deposited or kept, and to search for the same; and if necessary, such Officer may break open the Door of any Room or Closet, or any Box, Trunk, or Case in which any such Cards or Wrappers are suspected to be contained; and all Cards so found shall be deemed to be kept and intended for Sale, unless the contrary shall be proved.

Unstamped Cards to be forfeited.

Name of Maker, &c. to be printed on the Wrapper.

**20.** Upon the Wrapper of every Pack of Cards sold or sent or delivered out by any Maker of Cards there shall be printed his Name and the Place at which he shall be licensed to sell Cards in manner to be approved by the said Commissioners, but, except as is provided by the next succeeding Section, no Cards shall be sold or sent or delivered out by any Maker the Stamp upon the Wrapper of which shall

shall be cancelled or defaced, or in any way damaged or injured; and for every Pack of Cards sold or sent or delivered out by any Maker of Cards, on the Wrapper of which shall not be printed as hereby required such Name and Place, or, except as aforesaid, the Stamp on which Wrapper shall be cancelled or in any way defaced, damaged, or injured, he shall forfeit the Sum of *Five Pounds*; and Cards enclosed in a Wrapper having the Name of a Maker thereon, or otherwise purporting to be made by him, shall be deemed to have been made by him, unless the contrary shall appear.

The Seller of Cards to cancel the Stamp on the Wrapper.

**21.** Every Person who shall sell Cards, other than a Maker selling by Wholesale to Persons who buy to sell again, shall, before he shall deliver or send out a Pack of Cards on the Sale thereof, cancel the Stamp on the Wrapper denoting the Duty by this Act charged on a Pack of Cards by writing or impressing in Ink his Name upon such Stamp, or in default thereof he shall forfeit the Sum of *Five Pounds*.

Frauds relating to Wrappers, &c. Penalty 20*l*.

**22.** If any Person shall remove or get off or aid or assist in removing or getting off from any Pack of Cards any Wrapper which shall have been used for enclosing the same, with Intent that such Wrapper shall be again used for enclosing any other Cards; or shall use any Wrapper so removed or got off for enclosing any such other Cards; or shall sell or utter any such last-mentioned Wrapper, or any Cards enclosed therein, knowing the said Wrapper to have been so removed or got off as aforesaid; or shall knowingly have in his Possession or on his Premises any Wrapper which shall have been so removed or got off, with Intent that the same might be used for enclosing other Cards; or shall be guilty of any fraudulent Act, Contrivance, or Device whatever relating to the Duty by this Act chargeable in respect of Cards, he shall forfeit the Sum of *Twenty Pounds*; and it shall be lawful for the said Commissioners to refuse to grant Licence to sell Cards to any Person who shall have been convicted of any such Offence.

What Cards may be sold without Wrappers.

**23.** Provided, That Cards in Packs, each Pack containing an Ace of Spades duly stamped under the said Act of the Ninth Year of King George the Fourth, and also Cards duly imported, enclosed in Wrappers according to the Act of the Sixteenth and Seventeenth Years of Her present Majesty, Chapter One hundred and seven, may lawfully be sold as if this Act had not been made; and provided that it shall be lawful for any Person possessed of Cards previously sold and opened, used and played with, to sell the same to any licensed Maker of Cards without having a Licence for selling Cards, and without such Cards being enclosed in a Wrapper provided under this Act; and if any such Cards shall be afterwards sold or sent or delivered out by the said Maker, they shall be subject to all the Provisions of this Act,

Second-hand Cards.

and for the Purposes of this Act such Maker shall be deemed to be the Maker of such Cards.

Unstamped Cards may be exported

**24.** Provided also, That any licensed Maker of Cards who shall have given Security as herein-after required may export Cards, made by him on the Premises specified in his Licence, to the Isle of Man or to Foreign Parts without being enclosed in Wrappers provided under this Act, under the Conditions and Provisions herein-after mentioned; that is to say, before any Cards intended for Exportation shall be removed from the Premises of the licensed Maker, Notice of the Intention to export them shall be given by the Maker to the said Commissioners, or to some Officer of Inland Revenue authorized to receive the same, at the Chief Office in London, or at the Place at which the Maker shall be licensed, specifying the Quantity of Packs and the Description of the Cards to be exported, the Ports or Places from and to which respectively, and the Name of the Ship or Vessel in which the Cards are to be exported; and the said Commissioners or Officer shall issue to the Maker a Certificate, in such Form as the Commissioners shall approve, authorizing the Removal and Exportation of the Cards in conformity with the Notice, and thereupon the Cards may be removed from the Premises of the Maker, and shall be deposited on board the said Ship or Vessel within a certain Period to be specified in the Certificate, not exceeding in any Case Days from the Date thereof; and if the said Cards or any of them shall be found at any Place whatever within the United Kingdom after the Expiration of such Period, or at any Place other than the Port or Place of Exportation, or in Transit thereto, before the Expiration thereof, or at any Place and at any Time not accompanied by such Certificate, the same shall be forfeited, and may be seized by any Officer of Inland Revenue, and disposed of as by this Act is provided as to Cards forfeited: Provided, that before any Maker of Cards shall be permitted to export Cards not enclosed in Wrappers under this Act, he shall give Bond to Her Majesty in the Penalty of *Five hundred Pounds*, with One or more Sureties to the Satisfaction of the Commissioners, conditioned for the due Exportation, in conformity with the Provisions of this Act, of all Cards which he shall be authorized to export, which Bond, and the Condition thereof, shall be in such Form and Terms as the Commissioners shall require.

Penalty for making unstamped Bonds.

**25.** If any Person shall make, issue, deliver, assign, transfer, or negotiate in the United Kingdom, any Bond, Debenture, or other Security by this Act chargeable with Stamp Duty, or shall pay any Interest or Dividend accrued due in respect of any such Instrument, before the same shall be duly stamped for denoting the said Duty, he shall forfeit the Sum of *Twenty Pounds*.

**26.** For

For Probate Duty Bond Debts to be Assets as if they were simple Contract Debts.

**26.** For the Purposes of the Stamp Duties on Probates of Wills and Letters of Administration, Debts and Sums of Money due and owing from Persons in the United Kingdom to any deceased Person at the Time of his Death on Obligation or other Specialty, shall be Estate and Effects of the Deceased, within the Jurisdiction of Her Majesty's Court of Probate in England or Ireland, as the Case may be, in which the same would be if they were Debts owing to the Deceased upon Simple Contract, without regard to the Place where the Obligation or Specialty shall be at the Time of the Death of the Deceased.

Licences to Hawkers with One Horse reduced.

All Licences to Hawkers may be half-yearly.

**27.** The Stamp Duty of Eight Pounds now payable for a yearly Licence to be taken out by a Hawker, Pedlar, and Petty Chapman in Great Britain, to travel and trade with One Horse only, exceeding in Height Thirteen Hands, shall be and the same is hereby reduced to the Sum of *Four Pounds;* and any Licence to be hereafter taken out by a Hawker, Pedlar, and Petty Chapman in Great Britain may be granted for a Period not exceeding *Six* Months on Payment only of *One Half* the Amount payable for a yearly Licence for the same Purpose: Provided that any such Licence shall continue in force until and upon the *Thirty-first Day of January* or the *Thirty-first Day of July*, as the Case may be, next following the Date thereof, and no longer.

Recovery of Penalties.

**28.** All Penalties imposed by this Act relating to Stamp Duty may be proceeded for and recovered for the Use of Her Majesty in the same Manner, and in the Case of Summary Proceedings with the like Power of Appeal, as any Penalty may be proceeded for and recovered under any Act relating to the Excise Revenue.

The Sums assessed under Schedules (A.), (B.), and (D.) for Year 1861 to be taken as assessed for 1862.

**29.** The Sum charged as the annual Value or Amount of any Property, Profits, or Gains in the several and respective Assessments made in pursuance of the Act passed in the Twenty-fourth Year of Her Majesty's Reign, Chapter Twenty, under Schedules (A.), (B.), and (D.) respectively of the Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, and the Duty charged in respect of such annual Value or Amount by the said Assessments for the Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, shall (except as to Railways and otherwise as provided by the Acts relating to Income Tax) be taken as the annual Value or Amount of such Property, Profits, or Gains, and as the Duty payable in respect thereof respectively for the Year commencing on the *Sixth Day of April One thousand eight hundred and sixty-two;* and the respective Assessments made under the said Schedules respectively for the said

Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, except as aforesaid, shall, for the Purposes of this Act, be deemed and taken to be Assessments made for the Year commencing on the *Sixth Day of April One thousand eight hundred and sixty-two;* and the Commissioners executing the Income Tax Acts shall, for each Place within their several and respective Districts, cause Duplicates of the said Assessments so made payable for the said last-mentioned Year to be made out and delivered, together with Warrants for collecting the same, to such Persons, being Inhabitants of the Place to which the Duplicate shall relate, as they the said Commissioners shall think fit to appoint to be Collectors of the Duties thereby charged; and the said Commissioners are hereby authorized and required to appoint such Persons to be Collectors, as if they had been presented to them by Assessors under the Acts now in force; and such Duties shall be collected, levied, and paid for the said Year commencing on the *Sixth Day of April One thousand eight hundred and sixty-two,* subject nevertheless to be increased in like Manner as the Assessments made for the Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, and subject also to be abated or discharged at the End of the Year commencing on the *Sixth Day of April One thousand eight hundred and sixty-two,* for any Cause allowed by the said Acts: Provided that whenever it shall appear that any Property, Profits, or Gains chargeable under this Act have not been charged by the Assessments made for the Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, such Property, Profits, and Gains shall be assessed to the Duties granted by this Act under the Provisions of the said several Acts applicable thereto.

Persons intrusted with the Payment of Dividends, &c. since 5th April 1862, and before the passing of this Act, to make Returns thereof.

**30.** And whereas, since the Fifth Day of April now last past, and before the passing of this Act, divers Dividends, Annuities, and Shares of Annuities, and Interest on Loans and on Bonds, Debentures, and other Securities directed by the Acts relating to the Income Tax in force on the said last-mentioned Day to be assessed under Schedule (C.) of the said Acts, have become due and payable, and by reason of the Expiration of the said Acts before the passing of this Act have not been assessed and charged with the said Tax; and it is expedient to provide for the Assessment thereof with the Rates and Duties of Income Tax granted by this Act, and for the Collection of the Sums assessed from the Persons respectively to whom such Dividends, Annuities, Shares, and Interest have been paid, or who are entitled thereto, or otherwise, as herein-after mentioned: Be it enacted, That all Persons respectively intrusted with the Payment of any such Dividends, Annuities, Shares, or Interest as aforesaid, or who have paid the same, either as Agent or otherwise, shall, within *One Calendar Month* next after the passing of this Act, deliver or cause to be delivered to the Commis-

Commissioners for Special Purposes, at the Head Office of Inland Revenue at Somerset House in the City of Westminster, an Account in Writing, duly authenticated and signed by such Persons respectively, containing a Description of all such Dividends, Annuities, Shares, and Interest intrusted to them for Payment, which have become due or payable since the Fifth Day of April last, and also a true and perfect Account of the Names and Residences of the several Persons to whom the same have become due or payable, and the several Sums which have been so paid to them, or to which they have become entitled respectively, specifying in such Account the Sums (if any) deducted or retained by the Persons intrusted with such Payment as aforesaid in respect of Income Tax, to become chargeable thereon by the Authority of Parliament in this present Session; and the said Commissioners for Special Purposes shall make Assessments thereon respectively, under Schedule (C.) of the Acts relating to the Income Tax, of the Rates and Duties of Income Tax granted by this Act; that is to say, they shall make Assessments in respect of so much of such Dividends, Annuities, Shares, or Interest as may not have been actually paid to the Persons entitled thereto, and also in respect of so much thereof as shall have been paid to such Persons, but in respect whereof the Duty chargeable by this Act shall have been retained as aforesaid, in like Manner as if this Act had been in force on the *Sixth Day of April One thousand eight hundred and sixty-two*, and the Duty so assessed shall be paid into the Bank of England in manner directed by the said Acts in such Cases; and in respect of so much of the said Dividends, Annuities, Shares, or Interest as shall have been paid to the Persons entitled thereto, the Duty whereon shall not have been deducted, they shall make Assessments on such Persons, and the Duty so assessed as last aforesaid shall be paid to the Receiver General of Inland Revenue by the several Persons who shall have received or are entitled to such Dividends, Annuities, Shares, and Interest respectively; and in default of such Payment, the Sums so assessed shall be recoverable from the said last-mentioned Persons, and shall be collected and levied in like Manner as any other Assessments made by the said Commissioners are or may be by Law directed or authorized to be recovered, collected, or levied: Provided always, that if any Sum so assessed shall not be so paid, recovered, or collected by or from any Person chargeable therewith, and such Person shall at any Time hereafter become entitled to any further Payment of the like Dividends, Annuities, Shares, or Interest, the Person intrusted with the Payment thereof as aforesaid shall, on Notice and Requisition from the said Commissioners in that Behalf, deduct and retain from and out of such further Payment any such Sum assessed and remaining unpaid as aforesaid, as well as any further Assessment chargeable in respect of such further Payment of the said Dividends,

Dividends, &c. due since 5th April 1862 to be assessed by Special Commissioners.

Shares, Annuities, or Interest; and the Person deducting and retaining any such Sum of Money assessed as aforesaid shall pay the same into the Bank of England to the Account of the said Receiver General in like Manner as he is by any Act relating to the Income Tax required or directed to pay over any other Sums of Money deducted or retained by him for Income Tax; and if any Person intrusted with the Payment of, or who hath paid any such Dividends, Annuities, Shares, or Interest as aforesaid, either as Agent or otherwise, shall neglect or refuse to do any Act hereby required or directed to be done or performed by him, he shall forfeit the Sum of *One hundred Pounds*.

Assessors not to be appointed for Duties unde Schedules (A.), (B.), and (D.)

**31.** No Assessors shall be appointed for the Duties payable under the said Schedules (A.), (B.), and (D.) of the said Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four: Provided that the Inspectors or Surveyors of Taxes shall act as Assessors in respect of such Duties whenever it shall be necessary.

Power to appoint more than Two Collectors of Income Tax and Assessed Taxes for each Parish.

**32.** And whereas, owing to the Increase of Population and in the Value of Property in divers Parishes and Places, it is necessary for the due and proper Collection of the Income Tax and Assessed Taxes respectively, that more than Two Collectors of the said respective Taxes should be appointed for each of such Parishes or Places: Be it enacted, That it shall be lawful for the Commissioners executing the Acts relating to the said respective Taxes in their respective Districts, and they are hereby authorized and required to appoint such Number of Persons to be Collectors of the several and respective Taxes or any of them in each such Parish or Place as the said Commissioners may deem necessary for the due and proper Collection of the said Taxes respectively, and all such Collectors shall have the same Powers and Authorities, and shall be subject to the like Rules, Regulations, and Penalties as any Collectors appointed under the Provisions of the Acts now in force.

SCHE-

# SCHEDULES.

## SCHEDULE (A.)

Containing the RATES and DUTIES of CUSTOMS granted, and the DRAWBACKS allowed on the following ARTICLES, by this ACT.

The Duties of Customs now charged on the Articles next mentioned shall continue to be levied and charged, on and after the First Day of July One thousand eight hundred and sixty-two until the *First Day of July One thousand eight hundred and sixty-three*, on Importation into Great Britain and Ireland; that is to say,

Duties now charged on Tea, Sugar, &c. continued until 1st July 1863.

| | | £ | s. | d. |
|---|---|---|---|---|
| Tea (without any Allowance for Draft) | the lb. | 0 | 1 | 5 |
| SUGAR, and Articles composed thereof, or sweetened therewith; viz:— | | | | |
| Candy, Brown or White, Refined Sugar, or Sugar rendered by any Process equal in Quality thereto | the Cwt. | 0 | 18 | 4 |
| White Clayed Sugar, or Sugar rendered by any Process equal in Quality to White Clayed, not being Refined or equal in Quality to Refined | the Cwt. | 0 | 16 | 0 |
| Yellow Muscovado and Brown Clayed Sugar, or Sugar rendered by any Process equal in Quality to Yellow Muscovado or Brown Clayed, and not equal to White Clayed | the Cwt. | 0 | 13 | 10 |
| Brown Muscovado or any other Sugar, not being equal in Quality to Yellow Muscovado or Brown Clayed Sugar | the Cwt. | 0 | 12 | 8 |
| Cane Juice | the Cwt. | 0 | 10 | 4 |
| Molasses | the Cwt. | 0 | 5 | 0 |
| Almonds, Paste of<br>Cherries, dried<br>Comfits, dry<br>Confectionery<br>Ginger, preserved<br>Marmalade<br>Plums, preserved in Sugar<br>Succades, including all Fruits and Vegetables preserved in Sugar, not otherwise enumerated | each the lb. | 0 | 0 | 2 |

The following Drawbacks on the several Descriptions of Refined Sugar herein-after mentioned, shall continue to be allowed on and after the First Day of July One thousand eight hundred and sixty-two until the *First Day*

*of July One thousand eight hundred and sixty-three,* on Exportation from Great Britain and Ireland to Foreign Parts, or on Removal to the Isle of Man for Consumption therein, or on Deposit thereof in any approved Warehouse, upon such Terms and subject to such Regulations as the Commissioners of Customs may direct, for Delivery from such Warehouse as Ship's Stores only, or for the Purpose of sweetening British Spirits in Bond; that is to say,

| | £ | s. | d. |
|---|---|---|---|
| Upon Refined Sugar, in Loaf, complete or whole, or Lumps duly refined, having been perfectly clarified and thoroughly dried in the Stove, and being of an uniform Whiteness throughout, or Sugar Candy, or Sugar refined by the Centrifugal Machine, or by any other Process, and not in any way inferior to the Export Standard No. 3 approved by the Lords of the Treasury - - for every Cwt. | 0 | 17 | 2 |
| Upon such Refined Sugar already described, if pounded, crushed, or broken in a Warehouse approved by the Commissioners of Customs, such Sugar having been there first inspected by the Officers of Customs in Lumps or Loaves, as if for immediate Shipment, and then packed for Exportation in the Presence of such Officers, and at the Expense of the Exporters for every Cwt. | 0 | 17 | 2 |
| Upon Refined Sugar unstoved, pounded, crushed, or broken, and not in any way inferior to the Export Standard Sample No. 1 approved by the Lords of the Treasury, and which shall not contain more than 5 per Centum Moisture over and above what the same would contain, if thoroughly dried in the Stove - - - - for every Cwt. | 0 | 16 | 4 |
| Upon Bastard or Refined Sugar, unstoved, broken in Pieces, or being ground, powdered, or crushed, not in any way inferior to the Export Standard Sample No. 2, approved by the Lords of the Treasury - - for every Cwt. | 0 | 15 | 1 |
| Upon Bastard or Refined Sugar being inferior in Quality to the said Export Standard Sample No. 2. for every Cwt. | 0 | 12 | 8 |

In lieu of the Duties of Customs now charged on the Articles undermentioned, the following Duties of Customs shall be charged thereon, on Importation into Great Britain and Ireland on and after the *Fourth Day of April One thousand eight hundred and sixty-two:*

| | Containing less than the following Rates of Proof Spirit, verified by Sykes' Hydrometer, viz., | | If imported in Bottles, and containing less than 42 Degrees. |
|---|---|---|---|
| | 26 Degrees. | 42 Degrees. | |
| | s. d. | s. d. | s. d. |
| Wine, Red - - the Gallon - | 1 0 | 2 6 | 2 6 |
| Ditto, White - - „ - | 1 0 | 2 6 | 2 6 |
| Lees of such Wine - „ - | 1 0 | 2 6 | 2 6 |

And for every Degree of Strength beyond the highest above specified, an additional Duty of Threepence per Gallon.

No

No more than *Ten* per Cent. of Proof Spirit shall be used in the fortifying of any Wine in Bond; nor shall any Wine be fortified in Bond to a greater Degree of Strength than *Forty* per Cent. of such Proof Spirit.

In lieu of the Duties of Customs now charged on the Articles undermentioned, the following Duties of Customs shall be charged thereon on Importation into Great Britain and Ireland, from and after the Day of *One thousand eight hundred and sixty-two*, viz.:—

| | £ | s. | d. |
|---|---|---|---|
| Cards, viz.: | | | |
| Playing Cards, the Dozen Packs - - - - | 0 | 3 | 9 |

## SCHEDULE (B.)

### Containing the Duties and Drawback of Excise granted and allowed respectively by this Act.

Duties on Licences to Brewers of Beer for Sale, to be taken out on and after the *Eleventh Day of October One thousand eight hundred and sixty-two.*

| | £ | s. | d. |
|---|---|---|---|
| For and upon every Licence to be taken out yearly by any Brewer of Beer for Sale— | | | |
| If the Quantity of Beer brewed by such Brewer within the Year ending the Tenth Day of October next preceding the taking out of such Licence, shall not exceed Twenty Barrels, the Duty of - - - - - - | 0 | 12 | 6 |
| And if the same shall exceed Twenty Barrels and not exceed Fifty Barrels, the Duty of - - - - - | 1 | 7 | 6 |
| And if the same shall exceed Fifty Barrels - - - - | 2 | 0 | 0 |
| And if the same shall exceed One hundred Barrels and shall not exceed One thousand Barrels then for every Fifty Barrels, and for any fractional Part or Number of an entire Quantity of Fifty Barrels, over and above the First One hundred Barrels, the additional Duty of - | 0 | 15 | 0 |
| And if the same shall exceed One thousand Barrels, and shall not exceed Fifty thousand Barrels, then in addition to the Duty chargeable in respect of One thousand Barrels, there shall be charged for every Fifty Barrels, and for any fractional Part or Number of an entire Quantity of Fifty Barrels, over and above One thousand Barrels, the further Duty of - - - - - - - - | 0 | 14 | 0 |
| And if the same shall exceed Fifty thousand Barrels, then in addition to the Duty chargeable in respect of Fifty thousand Barrels, there shall be charged for every Fifty Barrels, and for any fractional Part or Number of an entire Quantity of Fifty Barrels over and above Fifty thousand Barrels, the further Duty of - - - - | 0 | 12 | 6 |
| And for and upon every Licence to be taken out by any Person who shall first become a Brewer of Beer for Sale, the Duty of - - - - - - | 0 | 12 | 6 |

And there shall be charged upon and payable by the said last-mentioned Person in respect of such Licence such further additional Sum as, with the said Duty of Twelve Shillings and Sixpence, shall amount to the Duty chargeable on a Licence in respect of the like Number of Barrels of Beer brewed by him during the Existence of the Licence granted to him; and the said additional Charge shall be paid within *Ten* Days next after the Expiration of the said Licence.

The Duties aforesaid to be in lieu of the Duties now chargeable on Licences to be taken out by Brewers of Beer for Sale.

On Licences to brew Beer not for Sale, to be taken out on and after the *Eleventh Day of October One thousand eight hundred and sixty-two.*

For and upon every Licence to be taken out yearly by any Person who shall intend to brew Beer,—

| | £ | s. | d. |
|---|---|---|---|
| Where the Dwelling-house and Premises of such Person shall be of the annual Rent or Value of Twenty Pounds or upwards, and less than Fifty Pounds, the Duty of - | 0 | 5 | 0 |
| And where such House and Premises shall be of the annual Rent or Value of Fifty Pounds or upwards, and less than One hundred Pounds, the Duty of - - - | 0 | 10 | 0 |
| And where such House and Premises shall be of the annual Rent or Value of One hundred Pounds or upwards, and less than Three hundred Pounds, the Duty of - - | 1 | 0 | 0 |
| And where such House and Premises shall be of the annual Rent or Value of Three hundred Pounds or upwards, the Duty of - - - - - - - | 2 | 0 | 0 |

On a Victualler's occasional Licence; that is to say,

For and upon every occasional Licence to be granted to any Person who shall be duly authorized to keep a common Inn, Alehouse, or Victualling House, and licensed to sell therein Beer, Spirits, Wine, or Tobacco, to sell the like Articles for which he shall be so licensed at any such other Place, and for and during such Space or Period of Time not exceeding Three Days, as the Commissioners of Inland Revenue shall approve, and as shall be specified in such occasional Licence, the Sum of - - - 0 5 0

Drawback on Beer exported; that is to say,

For and in respect of every Barrel of Thirty-six Gallons, and so in proportion for any greater Quantity of Beer brewed or made by any entered or licensed Brewer of Beer for Sale in the United Kingdom, which, on or after the *Eleventh Day of October One thousand eight hundred and sixty-two* shall be exported to Foreign Parts as Merchandise, the Sum of *Threepence*, in addition to any Drawback now payable by Law on Beer exported.

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SCHE-

## SCHEDULE (C.)

### Containing the Stamp Duties imposed by this Act.

| | £ | s. | d. |
|---|---|---|---|
| For and in respect of every Pack of Playing Cards made fit for Sale or Use in the United Kingdom, the Duty of - | 0 | 0 | 3 |
| For and upon every Licence to be taken out annually by any Person who shall sell Playing Cards in the United Kingdom, | | | |
| If he be a Maker of Playing Cards, the Duty of - | 1 | 0 | 0 |
| If he be not a Maker of Playing Cards, the Duty of - | 0 | 2 | 6 |
| Upon and in respect of any Bond, Debenture, or other Security for Money, by whatever Name it shall be called, made in the United Kingdom or elsewhere, by or on behalf of any Foreign or Colonial Government, State, or Company, and bearing Date or signed after the passing of this Act (not being a Bill of Exchange or Promissory Note chargeable as such with Stamp Duty, nor being an Instrument already chargeable with the same Duty as a Bond, or for which a Composition in lieu thereof is payable) which shall be issued, delivered, assigned, transferred, or negotiated within the United Kingdom - - - | | | |
| Provided that this shall not extend to charge with Stamp Duty any Instrument bonâ fide made and issued at any Place out of the United Kingdom as a Security for the Repayment of Money raised or procured on Loan in Foreign Parts, and not lent or advanced by any Person resident in the United Kingdom, and the Interest whereon shall not be paid within the United Kingdom. | | | |

*The same Stamp Duty as is chargeable on a Bond made in the United Kingdom, for securing the Payment of the like Amount of Money.*

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## SCHEDULE (D.)

### Containing the Rates and Duties of Income Tax granted by this Act.

For *One Year* commencing on the *Sixth Day of April One thousand eight hundred and sixty-two*, for and in respect of all Property, Profits, and Gains mentioned or described as chargeable in the Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, for

granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices, the following Rates and Duties; that is to say,

For every Twenty Shillings of the annual Value or Amount of all such Property, Profits, and Gains (except those chargeable under Schedule (B.) of the said Act), the Rate or Duty of *Ninepence:*

And for and in respect of the Occupation of Lands, Tenements, Hereditaments, and Heritages chargeable under Schedule (B.) of the said Act, for every Twenty Shillings of the annual Value thereof,—

In England, the Rate or Duty of *Fourpence Halfpenny:*

And in Scotland and Ireland respectively, the Rate or Duty of *Threepence:*

Subject to the Provision contained in the said Act, Sixteenth and Seventeenth Victoria, Chapter Thirty-four, Section Twenty-eight, for the Relief of Persons whose Incomes are under One hundred and fifty Pounds a Year respectively, from so much of the said Duties as shall exceed the Rate of Sixpence for every Twenty Shillings of their respective Profits and Gains, computed as in the said Enactment is mentioned, and subject also to the Provision therein contained for the Exemption of Persons whose Incomes from every Source shall be less than One hundred Pounds a Year respectively.

# Customs and Inland Revenue.

A

# B I L L

To continue certain Duties of Customs and Inland Revenue for the Service of Her Majesty, and to grant, alter, and repeal certain other Duties.

(*Prepared and brought in by Mr. Massey, Mr. Chancellor of the Exchequer, and Mr. Peel*)

*Ordered, by* The House of Commons, *to be Printed*, 11 *April* 1862.

[Bill 90.]

*Under 3 oz.*

12 *May* 1862. 25 Vict.

A

# BILL

[AS AMENDED IN COMMITTEE]

TO

## Continue certain Duties of Customs and Inland Revenue for the Service of Her Majesty, and to grant, alter, and repeal certain other Duties.

Most Gracious Sovereign,

WE Your Majesty's most dutiful and loyal Subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the necessary Supplies to defray Your Majesty's Public Expenses, and making an Addition to the Public Revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several Rates and Duties herein-after mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Grant of Duties specified in Schedules annexed.

**1.** There shall be charged, collected, and paid for the Use of Her Majesty, Her Heirs and Successors, the several Rates and Duties of Customs, Excise, Stamps, and Income Tax respectively specified and contained in the several Schedules marked respectively (A.), (B.), (C.), and (D.) to this Act annexed, and there shall be allowed the several

Drawbacks specified and contained in the said Schedules (A.) and (B.); and the said Rates, Duties, and Drawbacks shall respectively take effect at or from the respective Times, and shall continue to be charged, collected, paid, and allowed for and during the Periods respectively specified or mentioned in that Behalf in this Act or in the said Schedules; and where no Time is so specified for the Commencement thereof, the same shall commence and take effect from and after the passing of this Act; and where no Period is so specified or limited for the Duration thereof, the same shall continue to be charged, collected, paid, and allowed respectively until Parliament shall otherwise order; and the said several Schedules shall be deemed to be Part of this Act.

Provisions of former Acts to apply.

**2.** All the Powers, Provisions, Clauses, Regulations, Allowances, and Exemptions, Forfeitures, Pains, and Penalties, contained in or imposed by any Act or Acts or any Schedule thereto, relating to any Duties or Drawbacks of the same Kind or Description as the several Rates or Duties or Drawbacks granted and allowed by this Act respectively, and in force at the Time of the passing of this Act and not hereby expressly repealed, or as regards the Income Tax in force on the Fifth Day of April One thousand eight hundred and sixty-two, shall respectively be in full Force and Effect with respect to the said Rates, Duties, and Drawbacks by this Act granted respectively, so far as the same are or shall be applicable, in all Cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said last-mentioned Rates and Duties and the Allowance and Payment of the said Drawbacks respectively, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express Provisions of this Act, as fully and effectually to all Intents and Purposes as if the same had been herein repeated and specially enacted, mutatis mutandis, with reference to the Rates, Duties, and Drawbacks by this Act granted respectively.

Licences to Brewers to expire on 10th October in every Year.

**3.** All Licences to Brewers of Beer, whether for Sale or not, to be granted under this Act, shall expire on the Tenth Day of October in every Year, and shall be renewed yearly on Payment of the Duties chargeable for or in respect of such Licences respectively, according to the Provisions of this Act.

Brewer of Beer for Sale, before obtaining Licence, to make Decla-

**4.** Before any Licence shall be granted to any Brewer of Beer for Sale (other than a First Licence), such Brewer or his principal Servant under whose Direction or Inspection the Malt or Sugar herein-after mentioned shall have been brewed, shall make before a Justice of the Peace,

Peace, or before the proper Collector of Excise, or any other Officer of Excise empowered to grant Licences (who are hereby respectively authorized to receive the same), a Declaration in Writing under the Provisions of the Act passed in the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two, setting forth a true and just Account of the Number of Bushels of Malt and of the Number of Pounds Weight Avoirdupois of Sugar respectively used by such Brewer in the brewing of Beer within the previous Year ending on the Tenth Day of October immediately preceding the Application for such Licence; and if such Declaration shall be false or untrue in any Particular, the Person making the same shall be subject to the Pains and Punishment prescribed by the said last-mentioned Act: Provided always, that in no Case shall a Licence be granted to any such Brewer of Beer upon Payment of any less Amount of Duty than shall appear to be due according to the Entries made in the Book or Paper delivered to such Brewer by the Officer of Excise for that Purpose.

Declaration under Provisions of 5 & 6 W.4. c. 62. of the Quantity of Malt and Sugar brewed during the previous Year.

**5.** Where the Amount of Duty chargeable upon any Licence to brew Beer for Sale shall exceed the Sum of Ten Pounds, such Licence may, if required, be granted upon Payment only of a Moiety of the Duty so chargeable, and in such Case the other Moiety of such Duty shall be paid on the First Day of March next after the Commencement of the Year for which such Licence shall have been granted, or in default thereof the Licence shall thereupon cease and determine, and be no longer in force.

When Licence of Brewer of Beer for Sale exceeds 10*l.*, it may be paid in Moieties.

**6.** If any Brewer of Beer for Sale shall die or become bankrupt, or shall discontinue the Trade and Business of a Brewer of Beer for Sale at any Time before the Expiration of his current Licence, it shall be lawful for the Commissioners of Inland Revenue to ascertain by such Means as they shall think fit, the Quantity of Malt and Sugar which such Brewer shall have used in the brewing of Beer in the Portion of the Year during which he shall have carried on Business under such Licence, and the Amount of Duty which would be payable for a Licence in respect of the Number of Barrels of Beer brewed from such Malt and Sugar, according to the Provisions of this Act; and if the Amount of Duty so ascertained shall be less than the Sum paid by such Brewer for his current Licence, the Commissioners shall cause the Difference to be repaid to such Brewer, or to the Executors or Assignees of any Brewer who shall die or become bankrupt.

On the Death of a Brewer, or on the Business being discontinued before Expiration of Licence, a proportionate Part of the Duty may be returned.

**7.** If any Person who shall have taken out a Licence as a Brewer of Beer for Sale for the First Time shall die, or become bankrupt, or discontinue the Business of a Brewer of Beer at any Time before the Expiration of such Licence, the further additional Sum which shall be chargeable

Surcharge upon a Brewer's First Licence to become payable

immediately upon Death or Bankruptcy of the Brewer.

chargeable under this Act in respect of such Licence shall become due and payable immediately thereupon, and shall be a Debt due to Her Majesty, Her Heirs and Successors, and be recoverable accordingly; and in the Case of any such Brewer who shall discontinue Business as aforesaid, Payment of such additional Sum may be demanded either verbally of such Brewer, or by Writing left at the Brewery, by the Supervisor of Excise of the District in which the Brewery shall be situated; and if the same shall not be paid within Three Days next after such Demand shall have been made, the Brewer shall forfeit a Penalty of double the Amount thereof; and in all the foregoing Cases the Stock of Beer, Malt, and Hops, and the Utensils and Machinery upon the Brewery Premises at the Time of such Death, Bankruptcy, or Discontinuance of Business, shall be and remain liable for the Payment of the said Sum of Money or Penalty, and are hereby made chargeable therewith, notwithstanding any Title or Conveyance by which they may be claimed.

Clause A. Brewers of Black Beer to continue to pay the Duties imposed by 6 G. 4. c. 81.

**8.** Provided always, That Brewers of Beer known as Spruce or Black Beer, for Sale, shall continue to pay for their Licences only the same Rates of Duty as are imposed by the Act passed in the Sixth Year of King George the Fourth, Chapter Eighty-one, on Brewers of Beer other than Table Beer only, for Sale; provided that any such Brewer shall not brew on the same Premises Beer of any other Description than Spruce or Black Beer, nor use in the brewing of the same, or add thereto, any Hops or other Bitter, or any Yeast or other Matter to produce Fermentation, and shall not brew, or sell or send out, any of such Beer of a less Specific Gravity than One thousand one hundred and eighty Degrees.

Occasional Licence may be granted to Victuallers to sell Beer, Spirits, &c., at such Time and Place as the Commissioners of Inland Revenue shall approve.

**9.** It shall be lawful for the Commissioners of Inland Revenue, whenever they shall consider it conducive to Public Convenience, Comfort, and Order, and with the Consents in Writing of Two Justices of the Peace usually acting at the Petty Sessions for the Petty Sessional Division within which the Place of Sale is situate, to authorize any Officer of Excise to grant to any Person who shall be duly authorized to keep a Common Inn, Alehouse, or Victualling House, and who shall have taken out the proper Excise Licences to sell therein Beer, Spirits, Wine, or Tobacco, an occasional Licence under this Act empowering him to sell the like Articles for which he shall have taken out such Licences as aforesaid at any such other Place, and for and during such Space or Period of Time, not exceeding Three consecutive Days at any One Time, as the said Commissioners shall approve, and as shall be specified in such occasional Licence; and any Person who shall have taken out such occasional Licence shall not be liable to any Penalty or Forfeiture whatever by reason or on account of his selling the Articles

Articles mentioned in the said Licence during the Time and at the Place specified therein; provided that no such occasional Licence shall authorize the Sale of any Beer, Spirits, or Wine, except during the Hours after Sunrise and before Sunset; and provided that the said Licence shall not protect any such Person in the Sale of any of the Articles herein mentioned, unless he shall at the Time of such Sale produce such Licence when requested to do so by any Officer of Excise, or by any Constable or Police Officer; nor shall any such Licence be granted for the Sale of any of the Articles herein mentioned on any Sunday, Christmas Day, or Good Friday, or on any Day appointed for a Public Fast or Thanksgiving; provided also, that the Provisions of this Clause shall not extend to Scotland.

Charging of Excise Duty on Sugar used in brewing deferred until 1st July 1863.

**10.** And whereas by an Act passed in the Nineteenth and Twentieth Years of Her Majesty's Reign, Chapter Thirty-four, a Duty of Excise was imposed on Sugar used in the brewing or making of Beer, and by an Act passed in the Twenty-fourth and Twenty-fifth Years of Her Majesty's Reign, Chapter Ninety-one, the charging of the said Duty was deferred until the First Day of July One thousand eight hundred and sixty-two, and it is expedient further to defer the same: Be it enacted, That the charging of the said Duty of Excise on Sugar used as aforesaid shall be further deferred until the First Day of July One thousand eight hundred and sixty-three.

Licences granted under 23 Vict. c. 27. and 23 & 24 Vict. c. 107. may be transferred as other Excise Licences in case of the Removal of the licensed Person.

**11.** The Provisions contained in the Twenty-first Section of the Act passed in the Sixth Year of the Reign of King George the Fourth, Chapter Eighty-one, relating to the Transfer of Excise Licences in the Case of the Removal of any Person from the House or Premises at which he shall be licensed under that Act, shall be and the same are hereby extended to Licences granted under the Act passed in the Twenty-third Year of the Reign of Her present Majesty, Chapter Twenty-seven, and the Act passed in the Twenty-third and Twenty-fourth Years of Her said Majesty's Reign, Chapter One hundred and seven respectively: Provided that no Licence granted under either of the Two last-mentioned Acts for the Sale of Foreign Wine by Retail to be consumed upon the Premises where the same shall be sold, shall be transferred by the Officers of Excise, unless the Assignee of such Licence shall be duly licensed to keep a Refreshment House, nor unless he shall produce to such Officers a Certificate from a Justice of the Peace acting for the City, Borough, Town, or Place in which the House and Premises are situated, that such Justice does not object to such Transfer being made, and provided that no such Licence so transferred shall authorize the Assignee to carry on the Business mentioned therein for a longer Period than Five Weeks from the Date of such Transfer, unless he shall in the meantime have qualified himself to become the Holder of a Licence of the like Kind according to the Provisions of the said respective Acts.

 **12.** British

British Hops re-imported chargeable with Duty for Six Months after 16th Sept. 1862.

**12.** British Hops re-imported or brought back into Great Britain or Ireland on or at any Time within Six Months after the sixteenth Day of September One thousand eight hundred and sixty-two shall be charged with the Duty now payable on the Importation of Hops; and no British Hops which shall have been re-imported or brought back into Great Britain or Ireland, and warehoused for Security of Duties of Customs previously to the said Sixteenth Day of September, shall be delivered within Six Months after that Day without Payment of the Duty of Customs now chargeable on the Importation of Hops.

Repeal of Prohibition on Extract of Hops.

**13.** The Prohibition of the Importation of Extracts and Essences of Hops and other Concentrations thereof, contained in the Third Section of the Customs Duties Consolidation Act, 1860, shall, on and after the Sixteenth Day of September One thousand eight hundred and sixty-two, cease.

9 G. 4. c. 18. granting Duties on Cards and Dice repealed.

**14.** From and after the First Day of September One thousand eight hundred and sixty-two the Act passed in the Ninth Year of the Reign of King George the Fourth, Chapter Eighteen, for repealing the Stamp Duties on Cards and Dice made in the United Kingdom, and granting other Duties in lieu thereof, and amending and consolidating the Acts relating to Cards and Dice and the Exportation thereof, shall be and the same is hereby repealed, save and except as to any Duties granted by the said Act and which shall be then unpaid and any Penalty which may have been incurred, which Duties and Penalties shall be recoverable as if this Act had not been made; and also save and except so far as relates to any Bond given in pursuance of the said Act, which Bond shall, notwithstanding this Act, continue in force until the Condition thereof shall have been performed and fulfilled; and from and after the said First Day of September One thousand eight hundred and sixty-two the Duty by this Act charged for and in respect of Playing Cards, and all the Clauses and Provisions relating thereto, shall commence and take effect.

Interpretation of Terms.

**15.** The Term "Cards," wherever the same shall be used in this Act, shall mean Playing Cards by this Act charged with Stamp Duty; the Term "Wrapper" shall mean a Paper Wrapper, Label, or Enclosure provided by the said Commissioners of Inland Revenue for containing, enclosing, or covering a Pack of Cards and denoting the Duty in respect thereof; and the Term "Pack of Cards" shall mean any Quantity or Number of Cards not exceeding Fifty-two.

The Duty to be denoted on the Wrapper.

**16.** The said Duty of Threepence by this Act chargeable on a Pack of Cards shall be denoted on the Wrapper of every Pack, which Wrapper

Wrapper the Commissioners of Inland Revenue shall provide with such Stamp or Device or Devices thereon for denoting the said Duty as they shall think fit; and the said Commissioners shall supply to any Person who shall be a Maker of Cards, and shall as such have a Licence in force for selling Cards, with any Quantities of such Wrappers on Payment of the Duties for the same, or at their Discretion shall stamp, to denote the said Duty, the Wrappers of licensed Makers of Cards, which when so stamped shall be deemed to be Wrappers provided by the said Commissioners in pursuance of this Act; and no Cards shall be sold otherwise than in separate Packs, each Pack being enclosed in a Wrapper, the Stamp on which shall be at all Times uncovered and open to view, and which shall be securely fastened round or over the same by means of Wheat Flour Paste, or some other firmly adhesive Substance to be approved by the said Commissioners, and so and in such Manner that the Wrapper cannot be opened, or the Cards taken out without the Wrapper being destroyed; and if the Wrapper used by any Maker of Cards for enclosing any Cards sold by him shall not be fastened with proper and sufficient adhesive Substance as aforesaid, or bonâ fide in a secure Manner, and with the Stamp thereon open to view, according to the true Intent and Meaning of this Act, such Cards shall be deemed to be not enclosed in a Wrapper provided by the said Commissioners under this Act; and such Maker, and also any other Person selling such Cards, shall be subject and liable to the Penalties imposed by this Act for selling Cards not enclosed in Wrappers.

Cards to be sold in separate Packs enclosed in Wrappers.

**17.** The Commissioners of Inland Revenue, or any of their Officers authorized by them, shall grant to any Person who shall apply for it a Licence to sell Cards at any House to be specified therein, on Payment of the Duty for the same; every such Licence shall continue in force from the Day on which the same shall be granted until and upon the First Day of September then next following, and no longer.

Licences to sell Cards to be granted.

**18.** If any Person shall sell or offer for Sale any Cards without having a Licence in force for the same granted under this Act he shall forfeit Twenty Pounds; and any Person who shall sell Cards at any House or Place not specified in a Licence granted to him shall be deemed to be a Person selling Cards without having a Licence; and any Person who shall be found hawking or carrying about for Sale any Cards, whether enclosed in a stamped Wrapper or not, and who shall sell the same or offer the same for Sale at any Place for which he shall have no Licence, may be apprehended by any Constable or Officer of Inland Revenue, and taken before any Justice of the Peace, who shall hear and determine the Matter, and if upon Conviction of such Offence the Offender shall not immediately pay the Penalty in which he shall be convicted, he shall be committed to

Selling Cards without Licence, Penalty 20*l.*

Hawkers of Cards may be apprehended.

Prison for any Period not exceeding Three Months nor less than One Month, unless the Penalty shall be sooner paid; and all Cards which he shall be found trading with or carrying about shall be forfeited, and delivered up to the Commissioners to be dealt with as Cards forfeited under this Act.

Selling Cards without stamped Wrappers.

**19.** If any Maker of Cards shall remove or send or deliver out any Cards from his House or Premises, or the House or Place in which they were made or completed (except for Exportation as allowed by this Act), the same not being in Packs enclosed in Wrappers in manner aforesaid; or if any Person, whether a Maker of Cards or not, and whether licensed or not, shall sell any Cards, not being a Pack of Cards enclosed in a Wrapper as by this Act is required, he shall forfeit, if he be a Maker of Cards, the Sum of One hundred Pounds, and if he be not a Maker of Cards, the Sum of Twenty Pounds; and moreover, for every Pack of Cards which any such Person shall sell or send or deliver out not enclosed in a Wrapper as aforesaid, he shall forfeit the further Sum of Five Pounds; and all Cards found in any House or Place whatever (except on the Premises of a licensed Maker specified in his Licence) which shall be kept or intended for Sale, or which shall be found on the Premises or in the Possession of any Person who shall sell Cards, and which shall not be in separate Packs enclosed in Wrappers as aforesaid, shall be forfeited; and the same, and also all Wrappers found in any House or Place whatsoever which shall have been used for enclosing Cards, and removed or got off therefrom, may be taken and carried away by any Officer of Inland Revenue, and be destroyed or otherwise disposed of as the Commissioners shall direct; and for the Purposes of such Seizure it shall be lawful for any such Officer, under the Authority of a Warrant for that Purpose specially granted by any Two of the Commissioners or any Justice of the Peace, to enter in the Day-time any House or Place in which there shall be Reason to suspect that any Cards not enclosed in stamped Wrappers, or any Wrappers that have been used as aforesaid, are deposited or kept, and to search for the same; and if necessary, such Officer may break open the Door of any Room or Closet, or any Box, Trunk, or Case in which any such Cards or Wrappers are suspected to be contained; and all Cards so found shall be deemed to be kept and intended for Sale, unless the contrary shall be proved.

Unstamped Cards to be forfeited.

Name of Maker, &c. to be printed on the Wrapper.

**20.** Upon the Wrapper of every Pack of Cards sold or sent or delivered out by any Maker of Cards there shall be printed his Name and the Place at which he shall be licensed to sell Cards in manner to be approved by the said Commissioners, but, except as is provided by the next succeeding Section, no Cards shall be sold or sent or delivered out by any Maker the Stamp upon the Wrapper of which shall

shall be cancelled or defaced, or in any way damaged or injured; and for every Pack of Cards sold or sent or delivered out by any Maker of Cards, on the Wrapper of which shall not be printed as hereby required such Name and Place, or, except as aforesaid, the Stamp on which Wrapper shall be cancelled or in any way defaced, damaged, or injured, he shall forfeit the Sum of Five Pounds; and Cards enclosed in a Wrapper having the Name of a Maker thereon, or otherwise purporting to be made by him, shall be deemed to have been made by him, unless the contrary shall appear.

The Seller of Cards to cancel the Stamp on the Wrapper.

**21.** Every Person who shall sell Cards, other than a Maker of or Dealer in Cards selling by Wholesale to Persons who buy to sell again, shall, before he shall deliver or send out a Pack of Cards on the Sale thereof, cancel the Stamp on the Wrapper denoting the Duty by this Act charged on a Pack of Cards by writing or impressing in Ink his Name upon such Stamp, or in default thereof he shall forfeit the Sum of Five Pounds.

Frauds relating to Wrappers, &c. Penalty 20*l.*

**22.** If any Person shall remove or get off or aid or assist in removing or getting off from any Pack of Cards any Wrapper which shall have been used for enclosing the same, with Intent that such Wrapper shall be again used for enclosing any other Cards; or shall use any Wrapper so removed or got off for enclosing any such other Cards; or shall sell or utter any such last-mentioned Wrapper, or any Cards enclosed therein, knowing the said Wrapper to have been so removed or got off as aforesaid; or shall knowingly have in his Possession or on his Premises any Wrapper which shall have been so removed or got off, with Intent that the same might be used for enclosing other Cards; or shall be guilty of any fraudulent Act, Contrivance, or Device whatever relating to the Duty by this Act chargeable in respect of Cards, he shall forfeit the Sum of Twenty Pounds; and it shall be lawful for the said Commissioners to refuse to grant Licence to sell Cards to any Person who shall have been convicted of any such Offence.

What Cards may be sold without Wrappers.

**23.** Provided, That Cards in Packs, each Pack containing an Ace of Spades duly stamped under the said Act of the Ninth Year of King George the Fourth, and also Cards duly imported, enclosed in Wrappers according to the Act of the Sixteenth and Seventeenth Years of Her present Majesty, Chapter One hundred and seven, may lawfully be sold as if this Act had not been made; and provided that it shall be lawful for any Person possessed of Cards previously sold and opened, used and played with, to sell the same to any licensed Maker of Cards without having a Licence for selling Cards, and without such Cards being enclosed in a Wrapper provided under this Act; and if any such Cards shall be afterwards sold or sent or delivered out by the said Maker, they shall be subject to all the Provisions of this Act,

Second-hand Cards.

and for the Purposes of this Act such Maker shall be deemed to be the Maker of such Cards; and provided that this Act shall not extend to charge with Stamp Duty bonâ fide Toy Cards not exceeding in Length One Inch and Three Quarters, or in Width One Inch and a Quarter.

Unstamped Cards may be exported.

**24.** Provided also, That any licensed Maker of Cards who shall have given Security as herein-after required may export Cards, made by him on the Premises specified in his Licence, to the Isle of Man or to Foreign Parts without being enclosed in Wrappers provided under this Act, under the Conditions and Provisions herein-after mentioned; that is to say, before any Cards intended for Exportation shall be removed from the Premises of the licensed Maker, Notice of the Intention to export them shall be given by the Maker to the said Commissioners, or to some Officer of Inland Revenue authorized to receive the same, at the Chief Office in London, or at the Place at which the Maker shall be licensed, specifying the Quantity of Packs and the Description of the Cards to be exported, the Ports or Places from and to which respectively, and the Name of the Ship or Vessel in which the Cards are to be exported; and the said Commissioners or Officer shall issue to the Maker a Certificate, in such Form as the Commissioners shall approve, authorizing the Removal and Exportation of the Cards in conformity with the Notice, and thereupon the Cards may be removed from the Premises of the Maker, and shall be deposited on board the said Ship or Vessel within a certain Period to be specified in the Certificate, not exceeding in any Case Days from the Date thereof; and if the said Cards or any of them shall be found at any Place whatever within the United Kingdom after the Expiration of such Period, or at any Place other than the Port or Place of Exportation, or in Transit thereto, before the Expiration thereof, or at any Place and at any Time not accompanied by such Certificate, the same shall be forfeited, and may be seized by any Officer of Inland Revenue, and disposed of as by this Act is provided as to Cards forfeited: Provided, that before any Maker of Cards shall be permitted to export Cards not enclosed in Wrappers under this Act, he shall give Bond to Her Majesty in the Penalty of Five hundred Pounds, with One or more Sureties to the Satisfaction of the Commissioners, conditioned for the due Exportation, in conformity with the Provisions of this Act, of all Cards which he shall be authorized to export, which Bond, and the Condition thereof, shall be in such Form and Terms as the Commissioners shall require.

Penalty for making unstamped Bonds.

**25.** If any Person shall make, issue, deliver, assign, transfer, or negotiate in the United Kingdom, any Bond, Debenture, or other Security by this Act chargeable with Stamp Duty, or shall pay any Interest or Dividend accrued due in respect of any such Instrument, before the same shall be duly stamped for denoting the said Duty he shall forfeit the Sum of Twenty Pounds.

**26.** For

For Probate Duty Bond Debts to be Assets as if they were simple Contract Debts.

**26.** For the Purposes of the Stamp Duties on Probates of Wills and Letters of Administration, Debts and Sums of Money due and owing from Persons in the United Kingdom to any deceased Person at the Time of his Death on Obligation or other Specialty, shall be Estate and Effects of the Deceased, within the Jurisdiction of Her Majesty's Court of Probate in England or Ireland, as the Case may be, in which the same would be if they were Debts owing to the Deceased upon Simple Contract, without regard to the Place where the Obligation or Specialty shall be at the Time of the Death of the Deceased.

Licences to Hawkers with One Horse reduced.

All Licences to Hawkers may be half-yearly.

**27.** The Stamp Duty of Eight Pounds now payable for a yearly Licence to be taken out by a Hawker, Pedlar, and Petty Chapman in Great Britain, to travel and trade with One Horse only, exceeding in Height Thirteen Hands, shall be and the same is hereby reduced to the Sum of Four Pounds; and any Licence to be hereafter taken out by a Hawker, Pedlar, and Petty Chapman in Great Britain may be granted for a Period not exceeding Six Months on Payment only of One Half the Amount payable for a yearly Licence for the same Purpose: Provided that any such Licence shall continue in force until and upon the Thirty-first Day of January or the Thirty-first Day of July, as the Case may be, next following the Date thereof, and no longer.

Recovery of Penalties.

**28.** All Penalties imposed by this Act relating to Stamp Duty may be proceeded for and recovered for the Use of Her Majesty in the same Manner, and in the Case of Summary Proceedings with the like Power of Appeal, as any Penalty may be proceeded for and recovered under any Act relating to the Excise Revenue.

The Sums assessed under Schedules (A.) and (B.) for Year 1861 to be taken as assessed for 1862.

**29.** The Sum charged as the annual Value or Amount of any Property, Profits, or Gains in the several and respective Assessments made in pursuance of the Act passed in the Twenty-fourth Year of Her Majesty's Reign, Chapter Twenty, under Schedules (A.) and (B.) respectively of the Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, and the Duty charged in respect of such annual Value or Amount by the said Assessments for the Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, shall (except as to Railways and otherwise as provided by the Acts relating to Income Tax) be taken as the annual Value or Amount of such Property, Profits, or Gains, and as the Duty payable in respect thereof respectively for the Year commencing on the Sixth Day of April One thousand eight hundred and sixty-two; and the respective Assessments made under the said Schedules respectively for the said

Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, except as aforesaid, shall, for the Purposes of this Act, be deemed and taken to be Assessments made for the Year commencing on the Sixth Day of April One thousand eight hundred and sixty-two; and the Commissioners executing the Income Tax Acts shall, for each Place within their several and respective Districts, cause Duplicates of the said Assessments so made payable for the said last-mentioned Year to be made out and delivered, together with Warrants for collecting the same, to such Persons, being Inhabitants of the Place to which the Duplicate shall relate, as they the said Commissioners shall think fit to appoint to be Collectors of the Duties thereby charged; and the said Commissioners are hereby authorized and required to appoint such Persons to be Collectors, as if they had been presented to them by Assessors under the Acts now in force; and such Duties shall be collected, levied, and paid for the said Year commencing on the Sixth Day of April One thousand eight hundred and sixty-two, subject nevertheless to be increased in like Manner as the Assessments made for the Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, and subject also to be abated or discharged at the End of the Year commencing on the Sixth Day of April One thousand eight hundred and sixty-two, for any Cause allowed by the said Acts: Provided that whenever it shall appear that any Property, Profits, or Gains chargeable under this Act have not been charged by the Assessments made for the Year ended on the Fifth Day of April One thousand eight hundred and sixty-two, such Property, Profits, and Gains shall be assessed to the Duties granted by this Act under the Provisions of the said several Acts applicable thereto.

Persons intrusted with the Payment of Dividends, &c. since 5th April 1862, and before the passing of this Act, to make Returns thereof.

**30.** And whereas, since the Fifth Day of April now last past, and before the passing of this Act, divers Dividends, Annuities, and Shares of Annuities, and Interest on Loans and on Bonds, Debentures, and other Securities directed by the Acts relating to the Income Tax in force on the said last-mentioned Day to be assessed under Schedules (C.) and (D.) respectively of the said Acts, have become due and payable, and by reason of the Expiration of the said Acts before the passing of this Act have not been assessed and charged with the said Tax; and it is expedient to provide for the Assessment thereof with the Rates and Duties of Income Tax granted by this Act, and for the Collection of the Sums assessed from the Persons respectively to whom such Dividends, Annuities, Shares, and Interest have been paid, or who are entitled thereto, or otherwise, as herein-after mentioned: Be it enacted, That all Persons respectively intrusted with the Payment of any such Dividends, Annuities, Shares, or Interest as aforesaid, or who have paid the same, either as Agent or otherwise, shall, within One Calendar Month next after the passing of this Act, deliver or cause to be delivered to the Commis-

Commissioners for Special Purposes, at the Head Office of Inland Revenue at Somerset House in the City of Westminster, an Account in Writing, duly authenticated and signed by such Persons respectively, containing a Description of all such Dividends, Annuities, Shares, and Interest intrusted to them for Payment, which have become due or payable since the Fifth Day of April last, and also a true and perfect Account of the Names and Residences of the several Persons to whom the same have become due or payable, and the several Sums which have been so paid to them, or to which they have become entitled respectively, specifying in such Account the Sums (if any) deducted or retained by the Persons intrusted with such Payment as aforesaid in respect of Income Tax, to become chargeable thereon by the Authority of Parliament in this present Session; and the said Commissioners for Special Purposes shall make Assessments thereon respectively, under Schedules (C.) and (D.) respectively of the Acts relating to the Income Tax, of the Rates and Duties of Income Tax granted by this Act; that is to say, they shall make Assessments in respect of so much of such Dividends, Annuities, Shares, or Interest as may not have been actually paid to the Persons entitled thereto, and also in respect of so much thereof as shall have been paid to such Persons, but in respect whereof the Duty chargeable by this Act shall have been retained as aforesaid, in like Manner as if this Act had been in force on the Sixth Day of April One thousand eight hundred and sixty-two, and the Duty so assessed shall be paid into the Bank of England in manner directed by the said Acts in such Cases; and in respect of so much of the said Dividends, Annuities, Shares, or Interest as shall have been paid to the Persons entitled thereto, the Duty whereon shall not have been deducted, they shall make Assessments on such Persons, and the Duty so assessed as last aforesaid shall be paid to the Receiver General of Inland Revenue by the several Persons who shall have received or are entitled to such Dividends, Annuities, Shares, and Interest respectively; and in default of such Payment the Sums so assessed shall be recoverable from the said last-mentioned Persons, and shall be collected and levied in like Manner as any other Assessments made by the said Commissioners are or may be by Law directed or authorized to be recovered, collected, or levied: Provided always, that if any Sum so assessed shall not be so paid, recovered, or collected by or from any Person chargeable therewith, and such Person shall at any Time hereafter become entitled to any further Payment of the like Dividends, Annuities, Shares, or Interest, the Person intrusted with the Payment thereof as aforesaid shall, on Notice and Requisition from the said Commissioners in that Behalf, deduct and retain from and out of such further Payment any such Sum assessed and remaining unpaid as aforesaid, as well as any further Assessment chargeable in respect of such further Payment of the said Dividends,

Dividends, &c. due since 5th April 1862 to be assessed by Special Commissioners.

Shares, Annuities, or Interest; and the Person deducting and retaining any such Sum of Money assessed as aforesaid shall pay the same into the Bank of England to the Account of the said Receiver General in like Manner as he is by any Act relating to the Income Tax required or directed to pay over any other Sums of Money deducted or retained by him for Income Tax; and if any Person intrusted with the Payment of, or who hath paid any such Dividends, Annuities, Shares, or Interest as aforesaid, either as Agent or otherwise, shall neglect or refuse to do any Act hereby required or directed to be done or performed by him, he shall forfeit the Sum of One hundred Pounds.

Assessors not to be appointed for Duties under Schedules (A.) and (B.)

**31.** No Assessors shall be appointed for the Duties payable under the said Schedules (A.) and (B.) of the said Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four: Provided that the Inspectors or Surveyors of Taxes shall act as Assessors in respect of such Duties whenever it shall be necessary; and in lieu of the Poundage granted by the One hundred and eighty-third Section of the Act of the Fifth and Sixth Years of Her Majesty, Chapter Thirty-five, to be divided between the Assessors and Collectors, there shall be paid a Poundage of Three Halfpence to the Collectors.

Power to appoint more than Two Collectors of Income Tax and Assessed Taxes for each Parish.

**32.** And whereas, owing to the Increase of Population and in the Value of Property in divers Parishes and Places, it is necessary for the due and proper Collection of the Income Tax and Assessed Taxes respectively, that more than Two Collectors of the said respective Taxes should be appointed for each of such Parishes or Places: Be it enacted, That it shall be lawful for the Commissioners executing the Acts relating to the said respective Taxes in their respective Districts, and they are hereby authorized and required to appoint such Number of Persons to be Collectors of the several and respective Taxes or any of them in each such Parish or Place as the said Commissioners may deem necessary for the due and proper Collection of the said Taxes respectively, and all such Collectors shall have the same Powers and Authorities, and shall be subject to the like Rules, Regulations, and Penalties as any Collectors appointed under the Provisions of the Acts now in force.

SCHE-

# SCHEDULES.

## SCHEDULE (A.)

Containing the RATES and DUTIES of CUSTOMS granted, and the DRAWBACKS allowed on the following ARTICLES, by this ACT.

Duties now charged on Tea, Sugar, &c. continued until 1st July 1863.

The Duties of Customs now charged on the Articles next mentioned shall continue to be levied and charged, on and after the First Day of July One thousand eight hundred and sixty-two until the First Day of July One thousand eight hundred and sixty-three, on Importation into Great Britain and Ireland; that is to say,

| | | £ | s. | d. |
|---|---|---|---|---|
| Tea (without any Allowance for Draft) | the lb. | 0 | 1 | 5 |
| SUGAR, and Articles composed thereof, or sweetened therewith; viz:— | | | | |
| Candy, Brown or White, Refined Sugar, or Sugar rendered by any Process equal in Quality thereto | the Cwt. | 0 | 18 | 4 |
| White Clayed Sugar, or Sugar rendered by any Process equal in Quality to White Clayed, not being Refined or equal in Quality to Refined | the Cwt. | 0 | 16 | 0 |
| Yellow Muscovado and Brown Clayed Sugar, or Sugar rendered by any Process equal in Quality to Yellow Muscovado or Brown Clayed, and not equal to White Clayed | the Cwt. | 0 | 13 | 10 |
| Brown Muscovado or any other Sugar, not being equal in Quality to Yellow Muscovado or Brown Clayed Sugar | the Cwt. | 0 | 12 | 8 |
| Cane Juice | the Cwt. | 0 | 10 | 4 |
| Molasses | the Cwt. | 0 | 5 | 0 |
| Almonds, Paste of<br>Cherries, dried<br>Comfits, dry<br>Confectionery<br>Ginger, preserved<br>Marmalade<br>Plums, preserved in Sugar<br>Succades, including all Fruits and Vegetables preserved in Sugar, not otherwise enumerated | each the lb. | 0 | 0 | 2 |

The following Drawbacks on the several Descriptions of Refined Sugar herein-after mentioned, shall continue to be allowed on and after the First Day of July One thousand eight hundred and sixty-two until the First Day of

of July One thousand eight hundred and sixty-three, on Exportation from Great Britain and Ireland to Foreign Parts, or on Removal to the Isle of Man for Consumption therein, or on Deposit thereof in any approved Warehouse, upon such Terms and subject to such Regulations as the Commissioners of Customs may direct, for Delivery from such Warehouse as Ship's Stores only, or for the Purpose of sweetening British Spirits in Bond; that is to say,

| | £ | s. | d. |
|---|---|---|---|
| Upon Refined Sugar, in Loaf, complete or whole, or Lumps duly refined, having been perfectly clarified and thoroughly dried in the Stove, and being of an uniform Whiteness throughout, or Sugar Candy, or Sugar refined by the Centrifugal Machine, or by any other Process, and not in any way inferior to the Export Standard No. 3 approved by the Lords of the Treasury - - - for every Cwt. | 0 | 17 | 2 |
| Upon such Refined Sugar already described, if pounded, crushed, or broken in a Warehouse approved by the Commissioners of Customs, such Sugar having been there first inspected by the Officers of Customs in Lumps or Loaves, as if for immediate Shipment, and then packed for Exportation in the Presence of such Officers, and at the Expense of the Exporters for every Cwt. | 0 | 17 | 2 |
| Upon Refined Sugar unstoved, pounded, crushed, or broken, and not in any way inferior to the Export Standard Sample No. 1 approved by the Lords of the Treasury, and which shall not contain more than 5 per Centum Moisture over and above what the same would contain, if thoroughly dried in the Stove - - - - for every Cwt. | 0 | 16 | 4 |
| Upon Bastard or Refined Sugar, unstoved, broken in Pieces, or being ground, powdered, or crushed, not in any way inferior to the Export Standard Sample No. 2, approved by the Lords of the Treasury - - - for every Cwt. | 0 | 15 | 1 |
| Upon Bastard or Refined Sugar being inferior in Quality to the said Export Standard Sample No. 2. for every Cwt. | 0 | 12 | 8 |

In lieu of the Duties of Customs now charged on the Articles undermentioned, the following Duties of Customs shall be charged thereon, on Importation into Great Britain and Ireland on and after the Fourth Day of April One thousand eight hundred and sixty-two:

| | Containing less than the following Rates of Proof Spirit, verified by Sykes' Hydrometer, viz., | | If imported in Bottles, and containing less than 42 Degrees. |
|---|---|---|---|
| | 26 Degrees. | 42 Degrees. | |
| | *s.* *d.* | *s.* *d.* | *s.* *d.* |
| Wine, Red - - the Gallon - | 1 0 | 2 6 | 2 6 |
| Ditto, White - - „ - | 1 0 | 2 6 | 2 6 |
| Lees of such Wine - - „ - | 1 0 | 2 6 | 2 6 |

And for every Degree of Strength beyond the highest above specified, an additional Duty of Threepence per Gallon.

No

No more than Ten per Cent. of Proof Spirit shall be used in the fortifying of any Wine in Bond; nor shall any Wine be fortified in Bond to a greater Degree of Strength than Forty per Cent. of such Proof Spirit.

In lieu of the Duties of Customs now charged on the Articles undermentioned, the following Duties of Customs shall be charged thereon on Importation into Great Britain and Ireland, from and after the Day of One thousand eight hundred and sixty-two, viz.:—

| | £ | s. | d. |
|---|---|---|---|
| Cards, viz.: | | | |
| Playing Cards, the Dozen Packs - - - - | 0 | 3 | 9 |

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## SCHEDULE (B.)

### Containing the Duties and Drawback of Excise granted and allowed respectively by this Act.

Duties on Licences to Brewers of Beer for Sale, to be taken out on and after the Eleventh Day of October One thousand eight hundred and sixty-two.

| For and upon every Licence to be taken out yearly by any Brewer of Beer for Sale— | £ | s. | d. |
|---|---|---|---|
| If the Quantity of Beer brewed by such Brewer within the Year ending the Tenth Day of October next preceding the taking out of such Licence, shall not exceed Twenty Barrels, the Duty of - - - - - - | 0 | 12 | 6 |
| And if the same shall exceed Twenty Barrels and not exceed Fifty Barrels, the Duty of - - - - - | 1 | 7 | 6 |
| And if the same shall exceed Fifty Barrels - - - | 2 | 0 | 0 |
| And if the same shall exceed One hundred Barrels and shall not exceed One thousand Barrels then for every Fifty Barrels, and for any fractional Part or Number of an entire Quantity of Fifty Barrels, over and above the First One hundred Barrels, the additional Duty of - | 0 | 15 | 0 |
| And if the same shall exceed One thousand Barrels, and shall not exceed Fifty thousand Barrels, then in addition to the Duty chargeable in respect of One thousand Barrels, there shall be charged for every Fifty Barrels, and for any fractional Part or Number of an entire Quantity of Fifty Barrels, over and above One thousand Barrels, the further Duty of - - - - - - - - | 0 | 14 | 0 |
| And if the same shall exceed Fifty thousand Barrels, then in addition to the Duty chargeable in respect of Fifty thousand Barrels, there shall be charged for every Fifty Barrels, and for any fractional Part or Number of an entire Quantity of Fifty Barrels over and above Fifty thousand Barrels, the further Duty of - - - | 0 | 12 | 6 |
| And for and upon every Licence to be taken out by any Person who shall first become a Brewer of Beer for Sale, the Duty of - - - - - - | 0 | 12 | 6 |

And there shall be charged upon and payable by the said last-mentioned Person in respect of such Licence such further additional Sum as, with the said Duty of Twelve Shillings and Sixpence, shall amount to the Duty chargeable on a Licence in respect of the like Number of Barrels of Beer brewed by him during the Existence of the Licence granted to him; and the said additional Charge shall be paid within Ten Days next after the Expiration of the said Licence.

The Duties aforesaid to be in lieu of the Duties now chargeable on Licences to be taken out by Brewers of Beer for Sale.

| | £ | s. | d. |
|---|---|---|---|
| On a Victualler's occasional Licence; that is to say, | | | |
| For and upon every occasional Licence to be granted to any Person who shall be duly authorized to keep a common Inn, Alehouse, or Victualling House, and licensed to sell therein Beer, Spirits, Wine, or Tobacco, to sell the like Articles for which he shall be so licensed at any such other Place, and for and during such Space or Period of Time not exceeding Three Days, as the Commissioners of Inland Revenue shall approve, and as shall be specified in such occasional Licence, the Sum of - - - | 0 | 5 | 0 |

Drawback on Beer exported; that is to say,

For and in respect of every Barrel of Thirty-six Gallons, and so in proportion for any greater Quantity of Beer brewed or made by any entered or licensed Brewer of Beer for Sale in the United Kingdom, which, on or after the Eleventh Day of October One thousand eight hundred and sixty-two shall be exported to Foreign Parts as Merchandise, the Sum of Threepence, in addition to any Drawback now payable by Law on Beer exported.

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## SCHEDULE (C.)

### Containing the Stamp Duties imposed by this Act.

| | £ | s. | d. |
|---|---|---|---|
| For and in respect of every Pack of Playing Cards made fit for Sale or Use in the United Kingdom, the Duty of - | 0 | 0 | 3 |
| For and upon every Licence to be taken out annually by any Person who shall sell Playing Cards in the United Kingdom, | | | |
| If he be a Maker of Playing Cards, the Duty of - | 1 | 0 | 0 |
| If he be not a Maker of Playing Cards, the Duty of - | 0 | 2 | 6 |

Upon

Upon and in respect of any Bond, Debenture, or other Security for Money, by whatever Name it shall be called, made in the United Kingdom or elsewhere, by or on behalf of any Foreign or Colonial Government, State, or Company, and bearing Date or signed after the passing of this Act (not being a Bill of Exchange or Promissory Note chargeable as such with Stamp Duty, nor being an Instrument already chargeable with the same Duty as a Bond, or for which a Composition in lieu thereof is payable) which shall be issued, delivered, assigned, transferred, or negotiated within the United Kingdom - - - - The same Stamp Duty as chargeable on a Bond made in the United Kingdom, for securing the Payment of the like Amount of Money.

Provided that this shall not extend to charge with Stamp Duty any Instrument bonâ fide made and issued at any Place out of the United Kingdom as a Security for the Repayment of Money raised or procured on Loan in Foreign Parts, and not lent or advanced by any Person resident in the United Kingdom, and the Interest whereon shall not be paid within the United Kingdom.

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## SCHEDULE (D.)

### Containing the Rates and Duties of Income Tax granted by this Act.

For One Year commencing on the Sixth Day of April One thousand eight hundred and sixty-two, for and in respect of all Property, Profits, and Gains mentioned or described as chargeable in the Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices, the following Rates and Duties; that is to say,

For every Twenty Shillings of the annual Value or Amount of all such Property, Profits, and Gains (except those chargeable under Schedule (B.) of the said Act), the Rate or Duty of Ninepence:

And for and in respect of the Occupation of Lands, Tenements, Hereditaments, and Heritages chargeable under Schedule (B.) of the said Act, for every Twenty Shillings of the annual Value thereof,—

In England, the Rate or Duty of Fourpence Halfpenny:

And in Scotland and Ireland respectively, the Rate or Duty of Threepence:

Subject to the Provision contained in the said Act, Sixteenth and Seventeenth Victoria, Chapter Thirty-four, Section Twenty-eight, for the Relief of Persons whose Incomes are under One hundred and fifty Pounds a Year respectively, from so much of the said Duties as shall exceed the Rate of Sixpence for every Twenty Shillings of their respective Profits and Gains, computed as in the said Enactment is mentioned, and subject also to the Provision therein contained for the Exemption of Persons whose Incomes from every Source shall be less than One hundred Pounds a Year respectively.

# Customs and Inland Revenue.

A

# B I L L

[AS AMENDED IN COMMITTEE]

To continue certain Duties of Customs and Inland Revenue for the Service of Her Majesty, and to grant, alter, and repeal certain other Duties.

*(Prepared and brought in by Mr. Massey, Mr. Chancellor of the Exchequer, and Mr. Peel.)*

*Ordered, by* The House of Commons, *to be Printed*, 12 *May* 1862.

[Bill 109.]

*Under 3 oz.*

A

# BILL

TO

## Authorize the Issue of Debentures chargeable on Land in Ireland, in connexion with Sales made by the Landed Estates Court.

WHEREAS it is expedient to give Freedom and Facility to the Creation and Transfer of Charges on Land in Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. That the Short Title of this Act shall be "The Land Debentures Act, Ireland." Short Title.

2. Unless the Context shall require a different Construction, Words used in the Singular Number shall be construed to extend to One or more Persons, whether sole or corporate, and "the Court" shall mean the Landed Estates Court, Ireland, or any Judge thereof, and "Debenture" shall mean a Debenture issued under the Authority of this Act. Interpretation.

3. When any Conveyance or Declaration of Title shall be made by the Court, such Conveyance or Declaration may be made subject to Conveyances or Declarations of Title made

by Court may be subject to such Debentures as Court shall authorize.

to such Debentures, and of such Number and Value, as the Court shall authorize; provided that every such Debenture shall be for some whole Number of Hundreds of Pounds and shall not be for a smaller Sum than Two hundred Pounds.

Conveyance or Declaration to express Amount of Debentures to which it is subject.

**4.** Provided, That every Conveyance or Declaration shall express therein the Amount of the Debentures to which it is subject, and of the Interest annually payable thereon, and the Gale Days on which such Interest is payable, and the Day on which the Principal shall be payable.

Amount of Debentures not to exceed One Half of net Value of Lands.

**5.** Before it authorizes the Issue of any Debentures, the Court shall be satisfied, by Inspection of Rentals, Valuations, or other Evidence, that the Amount of Debentures about to be authorized does not exceed *One Half* of the net Value of the Lands on which the same are charged, after deducting the Value of all prior Charges; and that the Interest payable on such Debentures shall not exceed *One Half* the net annual Income of such Lands after deducting therefrom all the annual Payments mentioned in the next following Section of this Act: Provided always, that no Debenture shall be liable to be impeached by any Allegation that any greater Amount had been issued than that herein-before authorized.

Provision as to Priority of Debentures.

**6.** No Debenture shall be a Charge prior to Rentcharge in lieu of Tithes or Quitrent, or to any Charge subject to which the Conveyance or Declaration of Title shall have been made, either expressly or by Operation of Law, or to any Charge made for the Improvement of Land under the Authority of any Act of Parliament, but, except as aforesaid, every Debenture shall have Priority over any Charge created by the Person who shall receive such Conveyance or Declaration of Title, or by his Heirs or Assigns.

Court to appoint a Registrar of Debentures.

**7.** The Court shall appoint an Officer, to be called the Registrar of Debentures, and shall cause a sufficient Number of Books to be kept and prepared according to Forms to be settled by the Court, for the Purpose of recording the Creation and Transfer of Debentures, which Book shall be called the Registry of Debentures; and the Court shall cause a Seal to be prepared for the Purpose of sealing the said Debentures and every Endorsement made thereon, and that such Seal shall be in the Custody of the Registrar of Debentures or other Officer to be appointed by the Court for that Purpose.

Debentures to be deemed Real Property.

**8.** Every Debenture, and every Interest therein, which shall belong to the Owner of an Estate of Inheritance in the Lands charged

charged therewith, shall be deemed Real Property, and shall be descendible in the same Manner as the said Estate, and shall be deemed in Equity to be conveyed by any Transfer of such Estate, unless the Nature or Contents of the Instrument affecting such Transfer shall require a different Construction; but no Debenture shall merge in the Estate on which it is charged without the express Directions, duly registered, of the Owner thereof.

Owners of Debentures may assign same.

**9.** The lawful Owner of any Debenture shall be at liberty to assign the same by an Instrument according to a Form to be settled by the Court, and on Production to the Registrar of Debentures of the said Debenture, and of the Assignment thereof, duly verified, he shall cause a Note thereof to be entered in the said Registry, and to be endorsed on the said Debenture, and thereupon the Assignee shall become the lawful Owner of the said Debenture.

Debentures may be assigned to not exceeding Four Trustees;

**10.** Any Debenture may be assigned to any Number of Trustees not exceeding *Four*, with a Clause directing that there shall be no Survivorship, and in such Case the Registrar of Debentures shall not accept a Transfer by any smaller Number of Trustees, without an Order of the Court.

or to Two Trustees, upon Trusts of Deed to be executed by the Court.

**11.** Any Debenture may be assigned to Two Trustees, upon the Trusts of a Deed to be referred to in such Assignment, and to be executed by the Court; and a Copy of the Deed of Trust, together with the said Debenture and Assignment thereof, shall be preserved in the said Registry, and thereupon no Assignment of the said Debenture shall be received without an Order of the Court; but any Person interested in the said Trusts shall be at liberty to apply to the Court to carry them into execution, and thereupon the Court shall have the same Jurisdiction in the Matter thereof as the Court of Chancery has in similar Cases.

Title of Assignee for Value Consideration not to be impeached because Assignment was not authorized by Court.

**12.** Provided always, That no Assignee for valuable Consideration of any Debenture, according to the Forms herein-before mentioned, shall be liable to have his Title thereto impeached by any Allegation that the Assignment was made to him by Trustees or without the Authority of the Court, unless the said Assignee shall have been guilty of actual Fraud in procuring such Assignment.

Owners of Debentures may make equitable Assignment thereof by Deposit.

**13.** The lawful Owner of any Debenture may make an equitable Assignment thereof by way of Mortgage or otherwise, by depositing the same with any Person on an Agreement for Value or as a Security for any Debt, and the equitable Assignee of any Debenture shall not be entitled to institute any Proceedings against the Owner of the

Lands charged therewith, but he shall be at liberty to apply to the Court to obtain a legal Transfer of such Debenture, and the Court, if it thinks proper, may order the lawful Owner of the said Debenture to execute a legal Transfer thereof to such equitable Assignee, or may direct the said Registrar to enter a Note thereof on the said equitable Assignment in the said Registry, and to endorse the same on the said Debenture, and thereupon the said equitable Assignee shall become the lawful Owner of the said Debenture.

In case of Loss of Debenture Court may issue a new Debenture;

**14.** In case of the Loss or Destruction of any Debenture, the lawful Owner thereof may apply to the Court for a new Debenture, and the Court, on Evidence of such Loss or Destruction, and on such public Notice, by Advertisements or otherwise, as it shall direct, shall be at liberty to issue a new Debenture in place of the One that had been lost or destroyed: Provided always, that the Court, if it thinks proper, may require Security by Recognizance or otherwise to indemnify any Person who may have had an equitable Interest or Lien in or on the Debenture alleged to have been lost or destroyed.

or if Debenture torn or Endorsements thereon numerous.

**15.** If any Debenture shall be torn or otherwise damaged, or if the Endorsements thereon shall be so numerous that there shall not be sufficient convenient Room thereon for further Endorsements, it shall be lawful for the Court to cancel the same, and to issue a new Debenture in place thereof.

Court to direct by whom Costs of such new Debenture to be paid.

**16.** The Costs of making, issuing, and preparing any new or substituted Debenture shall be paid by such Party as the Court shall direct to bear the same.

Party acquiring Right to Debenture may apply to Court for a Transfer.

**17.** When the Right to any Debenture, or a Title to transfer the same, shall accrue to any Person by Operation of Law, it shall be lawful for such Person to apply to the Court to have a Transfer entered on the said Registry to him, or according to his Directions, and to have a Note of such Transfer endorsed on the said Debenture.

Registry not to be inspected without Order of Court.

**18.** No Person shall be permitted to inspect the Registry of Debentures, or take any Extract therefrom, without an Order of the Court.

When Interest unpaid, Application may be made to Court for a Sale.

**19.** The lawful Owner of any Debenture to whom any Interest shall remain due for the Term of *One Month* after the Time appointed in such Debenture for the Payment thereof shall be at liberty to apply to the Court for a Sale of the Land charged with such Debenture.

**20.** The

Option as to Payments to Debenture Holder out of Proceeds of Sale.

**20.** The Court shall thereupon give to the Holder of every Debenture the Option either to have the Sum due for Principal and Interest on his Debenture paid out of the Proceeds of the Sale, according to the Priority of his Demand, or to have the Interest only paid, and to permit the Principal to remain a Charge on the unsold Lands until the Time appointed by the Debenture for Payment of the Principal.

Indemnity to Trustee holding Debentures.

**21.** If the lawful Owner of any over-due Debenture shall be a Trustee, he shall not be deemed guilty of a Breach of Trust, nor be accountable for the Manner in which he may exercise the said Option.

Court may dismiss Proceedings, on Payment of Interest and Costs.

**22.** The Court shall have Authority to dismiss such Proceedings, upon Payment of Interest and Costs, or on such other Terms as it may deem equitable.

Proceedings not to be taken after Lapse of Two Years.

**23.** No Proceeding shall be taken to recover any Arrear of Interest due on any Debenture after the Lapse of *Two* Years from the Time when the same shall have fallen due: Provided always, that an Application to the Court by any Debenture Holder shall be deemed an Application on behalf of all Persons holding Debentures on the same Lands, so as to entitle them to recover all Arrears of Interest that may have accrued due within *Two* Years previous to the Date of such Application.

When Debenture unpaid Application may be made to Court for Sale;

**24.** The lawful Owner of any Debenture which shall remain unpaid at the Time appointed by the said Debenture for Payment of the Principal thereof may apply to the Court for a Sale of the Land charged therewith.

or, on Consent, new Debenture may be issued.

**25.** Provided, That if the Owner of any Debenture, and of the Land chargeable therewith, shall so consent, it shall be lawful for the Court to issue a new Debenture in place of such over-due Debenture, which new Debenture shall bear such Interest and shall be payable at such Time as shall be therein expressed.

Indemnity to Trustee giving or withholding Consent.

**26.** Provided, That if the Owner of any over-due Debenture shall be a Trustee, he shall not be deemed guilty of a Breach of Trust by reason of his giving or withholding his Consent to the Acceptance of such new Debenture.

If Owner of Debenture refuse new Debenture, he may be paid off, and

**27.** Provided, That if the Owner of any over-due Debenture shall refuse to accept a new Debenture in lieu thereof, the Owner of the Land charged therewith may pay off the same, and apply to the

Debenture issued to fresh Holder.

Court to issue a new Debenture in lieu thereof, which new Debenture shall be issued to such Person as the said Owner shall direct.

If Owner of Land under Disability, Court may appoint Guardian ad litem.

**28.** Provided, That if the Owner of any Land shall be under any Disability, the Court may appoint a Guardian ad litem for such Owner; and the Consent and Directions of such Guardian shall have the same Effect as if the Owner had been under no Disability, and had given such Consent or Directions.

Court may issue Debentures under Sect. 25. & 27. on Parts only of Land.

**29.** The Court shall have Power to issue new Debentures under the Provisions of the Twenty-fifth and Twenty-seventh Sections of this Act, chargeable on such Parts only of the Land on which the over-due Debentures had been charged, as to the Court shall seem equitable: Provided always, that no Land shall, by virtue of the Provisions of this Section, be charged with Debentures to a greater Amount than is authorized by the Fifth Section of this Act.

Court to appoint Registrar, Clerks, and Officers.

**30.** It shall be lawful for the Judges of the said Court (with the Consent in every Case of the Commissioners of Her Majesty's Treasury) to appoint a Registrar, and such Clerks and Officers as they shall deem necessary for the Purposes of this Act, and to remove such Registrar, Clerks, and Officers, or any of them, and the Salaries of the Registrar, Clerks, and other Officers to be appointed under this Act shall be from Time to Time regulated by the Commissioners of Her Majesty's Treasury, and, together with the Expenses of the necessary Officers and Books and other Expenses incident to the Execution of this Act, shall be paid out of such Monies as shall be provided by Parliament for that Purpose.

Debentures and Transfers thereof to be duly stamped before Registration.

**31.** Provided, That no Transfer of any Debenture shall be registered unless the said Debenture and the Deed of Transfer thereof shall have been duly stamped, and the Stamp Duty on such Debenture or Deed of Transfer shall be the same as that now required by Law for any Debenture or Bond of the same Amount issued by any Railway Company, or any Transfer thereof respectively.

# Debentures on Land (Ireland).

A

# BILL

To authorize the Issue of Debentures chargeable on Land in Ireland, in connexion with Sales made by the Landed Estates Court.

(*Prepared and brought in by Mr. Whiteside and Mr. Longfield.*)

*Ordered, by* The House of Commons, *to be Printed,* 2 *April* 1862.

[Bill 71.]

*Under* 1 *oz.*

# Declaration of Title Bill.

## ARRANGEMENT OF CLAUSES.


Parties claiming to be entitled to Land may petition Court of Chancery for Declaration of Title; Sect. 1.

Petition to set forth Particulars affecting Title; 2.

Two Persons interested may jointly petition; 3.

Petition as to Copyhold, &c. Lands not admitted; 4.

Court may investigate Petitioner's Title; 5.

If Court dissatisfied Petition to be dismissed, but Petitioner may appeal; 6.

When Investigation is satisfactory, Court may order a Declaration of Title to be made; 7.

Order not to be made until Security for Costs is given; 8.

Before Order is made Petitioner to file Affidavit that all Documents have been produced; 9.

Notice of Order to be advertised in Newspapers; 10.

Court may hear Petition against Declaration of Title; 11.

On Hearing of Petition Court may qualify or refuse Declaration of Title; 12.

Court may reserve Rights of Persons under lost Deeds; 13.

Where Court sees no Reason for Refusal, Declaration of Title to be made; 14.

Appeal may be made to Court of Appeal within Six Months after Declaration; 15.

Parties may appeal from Court of Appeal to House of Lords; 16.

Declaration of Title as approved by House of Lords to be final; 17.

Where Court refuses Title, Petitioner may appeal to Court of Appeal and House of Lords; 18.

Declaration of Title not to be set aside for Informality; 19.

Certificate of Court to be given to Party obtaining final Declaration of Title; 20.

Production of Deeds before sealing of Certificate; 21.

Declaration of Title to be deemed to have correctly declared Land therein referred to; 22.

Court may make separate Declarations or Certificates of Title; 23.
Court may cancel original Certificate, and give Certificates to separate Parts of Land comprised in cancelled Certificate; 24.
If Certificate of Title is lost a Duplicate may be issued; 25.
Declaration of Title not to affect certain Claims, &c.; 26.
Court may hear Petition for Recal or Variation of Declaration of Title; 27.
For Prevention of dealing with Land until Petition disposed of; 28.
Proceedings on Petition liable to Right of Appeal; 29.
Court to order Costs; 30.
Person alienating to invest Trust Money in Purchase of Lands to be settled to certain Uses; 31.
Provision as to married Women; 32.
Provision for other Persons under Disability; 33.
Proceedings not to abate by Death, &c.; 34.
Power to Lord Chancellor, &c. to make Rules and Orders; 35.
Court of Chancery to adopt Rules in Schedule until General Rules are framed; 36.
Lord Chancellor may appoint additional Clerks; 37.
Rules and Orders to be laid before Parliament; 38.
Penalty on making false Statement, and Suppression of Deeds and Evidence; 39.
Penalty on fraudulent Alterations, &c.; 40.
Conviction not to affect Civil Remedy; 41.
Enactment of Penalty not to exclude Obligation to make Discovery; 42.
Construction of Terms, &c. in this Act: "Person:" "Possession:" "Land;" 43.
Extent of Act, and Short Title; 44.
SCHEDULE.

A

# B I L L

INTITULED

## An Act for obtaining a Declaration of Title.

[Note.—*The Words printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS it is expedient to enable Persons having Interests in Land to obtain in certain Cases a Judicial Declaration of their Title to the same, so as to enable them to make an indefeasible Title to Persons claiming under them as Purchasers for a valuable Consideration: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

**1.** Every Person claiming to be entitled to Land in possession for an Estate in Fee Simple, either absolutely or subject to any Incumbrances, Estates, Rights, or Interests, vested or contingent, or claiming to have a Power of disposing of Land for his own Benefit for an Estate in Fee Simple in possession, either absolutely or subject to any Incumbrances, Estates, Rights, or Interests vested or contingent, may apply to the Court of Chancery by Petition in a summary Way for a Declaration of Title under this Act. Parties claiming to be entitled to Land may petition Court of Chancery for Declaration of Title.

**2.** Every such Petition shall state what Incumbrances, Estates, Rights, and Interests, if any, the Petitioner admits to affect his Title, and Petition to set forth Particulars affecting Title.

and subject to which he seeks to have his Title declared, and shall be in such Form as the Court shall by General Order direct.

Two Persons interested may jointly petition.

**3.** Any Two or more Persons claiming to have together such Estate or Interest in Land as would have enabled any One Person to petition as aforesaid may join in such a Petition, and such Proceedings shall be had thereupon as in the Case of a single Petitioner.

Petition as to Copyhold, &c. Lands not admitted.

**4.** No such Petition shall be admitted as to Lands of Copyhold or Customary Tenure.

Court may investigate Petitioner's Title.

**5.** The Court on the Hearing of any such Petition, on being satisfied that the Petitioner has proved such a Possession, and has stated such a Title as, if established, would entitle him to a Declaration under this Act, shall make an Order for the Investigation of the Title in the same Way as if the Petitioner had obtained as Vendor a Decree for a specific Performance of an Agreement for Sale of the Land in question for the Estate claimed in his Petition.

If Court dissatisfied, Petition to be dismissed, but Petitioner may appeal.

**6.** If the Court, on such Investigation, shall not be satisfied that the Petitioner has shown such a Title as it would have compelled an unwilling Purchaser to accept, then it shall dismiss the Petition, but subject to the Right of Appeal herein-after mentioned.

When Investigation is satisfactory, Court may order a Declaration of Title to be made.

**7.** In case the Court is satisfied after such an Investigation that the Petitioner has shown such a Title as it would have compelled an unwilling Purchaser to accept, it shall, on the Conditions herein-after mentioned being complied with, make an Order that on some Day, not less than Six Months from the Date of the Order, a Declaration shall be made establishing the Petitioner's Title, unless in the meantime Cause is shown to the contrary; and the Court may enlarge the Time for so showing Cause as often as it may deem proper.

Order not to be made until Security for Costs is given.

**8.** No such Order shall be made until the Petitioner shall have given Security to the Satisfaction of the Court for Payment of all Costs, if any, which may be awarded to any Person who may oppose the Petitioner's Right to the Declaration prayed for.

Before Order is made Petitioner to file Affidavit that all Documents have been produced.

**9.** No such Order shall be made until the Petitioner and his Solicitor, and any other Person whom the Court may require, shall have made and filed an Affidavit that to the best of their respective Knowledge, Information, and Belief all Settlements, Deeds, Documents, Instruments, Maps, Plans, and Papers relating to the Title to the

the Land in question have been produced to the Court, or the Cause of their Non-production has been fully and fairly explained, and that all Facts material to the Title have been fully and fairly disclosed to the Court: Provided always, that the Court may dispense with such Affidavit either from the Petitioner or his Solicitor when it shall think it reasonable so to do, or may permit the same to be modified as Circumstances may seem to require.

Notice of Order to be advertised in Newspapers.

**10.** The Petitioner after obtaining such Order shall give Notice of the same by Advertisement in such Newspapers and at such Times as the Court may direct, and in any other Manner which the Court may deem expedient for the Purpose of informing all Persons interested thereof, and as may be directed by any General or Special Order in that Behalf.

Court may hear Petition against Declaration of Title.

**11.** Any Person may, at any Time before the proposed Declaration of Title has been made, petition the Court in a summary Way to be heard against the making thereof, and the Court shall thereupon fix a Time for the Hearing of such Petition, and shall, if necessary, enlarge the Time for making the Declaration until such Petition shall have been disposed of.

On Hearing of Petition Court may qualify or refuse Declaration of Title.

**12.** On the Hearing of such Petition the Court may introduce such Restrictions or Qualifications in the Title sought to be declared as the Justice of the Case requires, or may refuse to make any Declaration of Title.

Court may reserve Rights of Persons under lost Deeds.

**13.** If it shall appear to the Court that all or any of the Title Deeds relating to the Land in question have been lost or destroyed, the Court may, if it shall think fit, reserve the Rights of all Persons under any such lost or destroyed Deeds.

Where Court sees no Reason for Refusal, Declaration of Title to be made.

**14.** If no Petition has been presented against the proposed Declaration of Title within the Time in that Behalf limited, or if, having been presented, the Court shall be of opinion that no sufficient Ground has been shown for refusing to make a Declaration of Title, then the Court shall, after the Expiration of the Time limited for showing Cause, upon being satisfied that the required Notices have been duly given, and that all other Requisitions have been duly complied with, make a Declaration that the original Petitioner has such Title to the Land in question as he sought to establish by his Petition or such Title, subject to any Restrictions or Qualifications which it may deem necessary or proper to introduce.

 **15.** Any

Appeal may be made to Court of Appeal within Six Months after Declaration.

**15.** Any Person may, at any Time within Six Months from the making of any such Declaration, appeal therefrom to the Court of Appeal in Chancery; and such Court shall on the Hearing of the Appeal make an Order confirming, varying, or annulling the Declaration as it may see fit; but if there is no such Appeal, then the said Declaration shall, at the Expiration of the said Six Months, become final for the Purposes of this Act.

Parties may appeal from Court of Appeal to House of Lords.

**16.** Any Person may appeal from any such Order of the Court of Appeal to the House of Lords at any Time within Six Months from the making thereof, and the said House may make an Order confirming, varying, or annulling the said Declaration as to them shall seem just; but if there is no such Appeal, then the Declaration, as approved by the said Court of Appeal in Chancery, shall at the Expiration of the said Six Months become final for the Purposes of this Act.

Declaration of Title as approved by House of Lords to be final.

**17.** In case of any such Appeal as aforesaid to the House of Lords, the Declaration of Title as finally approved by them shall become final for the Purposes of this Act.

Where Court refuses Title, Petitioner may appeal to Court of Appeal and House of Lords.

**18.** In case the Court shall have dismissed the original Petition on the Ground that the Petitioner had not shown such a Title as it would have compelled an unwilling Purchaser to accept, or if, on the Hearing of any Petition against the making of the Declaration of Title prayed for, the Court shall have refused to make any Declaration of Title, the original Petitioner shall have the same Rights of Appeal to the Court of Appeal in Chancery and to the House of Lords as is herein-before given to any Person appealing against a Declaration of Title actually made.

Declaration of Title not to be set aside for Informality.

**19.** The Declaration of Title, when it has in manner aforesaid become final for the Purposes of this Act, shall not be set aside or called in question by reason of any Irregularity or Informality in the Proceedings previous to the making thereof.

Certificate of Court to be given to Party obtaining final Declaration of Title.

**20.** Any Person who has obtained in manner aforesaid a final Declaration of Title shall be entitled to receive from the Court, on Payment of the proper Fees, and on Production of his Title Deeds for the Purpose next herein-after mentioned, a Certificate under the Seal of the Court setting forth the Title so declared, and further stating that the Time for appealing has expired, and such Certificate shall be conclusive Evidence of the Facts therein stated.

**21.** Before

Production of Deeds before sealing of Certificate.

**21.** Before any such Certificate shall be sealed the Petitioner shall produce to the Court such of his Deeds and Muniments of Title as the Court shall require, and the same shall be stamped or marked by the Officer issuing the Certificate in such Manner as the Court shall by General Orders direct, for the Purpose of showing that a Declaration of Title has been made as to the Land therein comprised, or as to such Part thereof as is comprised in the Declaration.

Declaration of Title to be deemed to have correctly declared Land therein referred to.

**22.** Such Declaration of Title, as soon as it shall have become final for the Purposes of this Act, shall in favour of any Person thereafter deriving Title as a Purchaser for valuable Consideration of the Land therein referred to, or of any Part thereof, or of any Estate, Right, or Interest therein, by, from, through, or under the Person whose Title has been so declared, be deemed and taken to have correctly declared the same, but save as aforesaid such Declaration shall have no Force or Effect whatever as to the Title of the Land comprised therein.

Court may make separate Declarations or Certificates of Title.

**23.** Instead of a single Declaration of Title, or a single Certificate, the Court may, on the Application of the Petitioner, make separate Declarations, or give separate Certificates as to the Title of separate Parts of the Land referred to in the Petition.

Court may cancel original Certificate, and give Certificates to separate Parts of Land comprised in cancelled Certificate.

**24.** If for the Purpose of a Sale or other Disposition of the Land comprised in any Certificate of Title, or of any Part thereof, the Holder of any such Certificate shall be desirous of having separate Certificates of Title relating to separate Portions of the Land, it shall be lawful for the Court, on Petition by such Holder, to order his Certificate to be cancelled, and in lieu thereof to give to him separate Certificates for separate Parts of the Land comprised in the Certificate so cancelled; and every such separate Certificate shall refer to and state the Date of the cancelled Certificate, and shall have the same Effect as to the Land therein comprised as if it had been given at the Time of such Date, but no such Substitution of Certificates shall in any way prejudice or affect the Title of any Person who shall previously thereto have become entitled to any Part of the Land comprised in the original Certificate, or any Interest in the same.

If Certificate of Title is lost a Duplicate may be issued.

**25.** If any Certificate of Title shall be lost or destroyed, the Court may issue a fresh Certificate in lieu of that so lost or destroyed, expressing on the Face thereof that it is a Duplicate, but no such fresh Certificate shall be of any avail against any Person who may have already derived Title under the original Certificate.

Declaration of Title not to affect certain Claims, &c.

**26.** The Declaration of Title shall not affect any of the Claims, Rights, or Matters herein-after mentioned, that is to say:

Land Tax, Succession Duty, Tithe Rentcharge, Quitrents, Charges made by virtue of any Act authorizing Advances of Money for draining or improving Lands, Rights of Common, Rights of Way, Watercourses, Rights of Water and other Easements, Rights of Fishing, Rights of Sporting, Heriots, Manorial Rights and Franchises, Leases or Agreements for Leases for any Term not exceeding Twenty-one Years where there is Occupation under the same.

Court may hear Petition for Recal or Variation of Declaration of Title.

**27.** If, at any Time after any such Declaration of Title as aforesaid has been made, any Person shall consider himself to be aggrieved thereby, it shall be lawful for him to present a Petition praying that the same may be recalled or varied in such Manner as may be just, and the Court shall thereupon proceed in the Hearing of such Petition in the same Manner as if the same had been presented before the Declaration of Title had been made, and the Court may, on the Hearing of the said Petition, annul the Declaration and order the Certificate or Certificates to be given up to be cancelled, or may make such Variations therein as it may deem just; but no Proceeding on any such Petition shall prejudice or affect the Title of any Person who before any such annulling or Variation shall have acquired a Title under the said Declaration as a Purchaser for valuable Consideration of the said Land or of any Estate or Interest therein.

For Prevention of dealing with Land until Petition disposed of.

**28.** The Court may, on the Hearing of any such last-mentioned Petition, make any Order which it may deem just, restraining the Person who has obtained the Declaration, and all Persons claiming by, through, from, or under him otherwise than as a Purchaser for valuable Consideration, from in any Manner dealing with the said Land until such Petition shall have been disposed of.

Proceedings on Petition liable to Right of Appeal.

**29.** All Proceedings on any such Petition shall be liable to the same Right of Appeal as in the Case of Petitions presented before such Declaration of Title was made.

Court to order Costs.

**30.** The Court shall have Power to order Costs either as between Party and Party or as between Solicitor and Client to be paid by and to any Person, Party to any Proceeding under this Act, and to give Directions as to the Fund out of which such Costs shall be paid.

Person alienating to invest

**31.** And whereas it may happen that at the Time of making such Declaration of Title as aforesaid there may be Estates, Rights, or

or Interests in the Land which may not be saved by the Declaration, and the Persons entitled to such Estates, Rights, or Interests may be damnified by the subsequent Alienation of the Land for valuable Consideration: Be it therefore enacted, That all Money received by the Person so alienating shall be deemed to have been received by him in trust to invest the same in the Purchase of Lands to be settled to the Uses and on the Trusts to and on which the Lands so alienated stood limited at the Time of such Alienation: Provided always, that this Clause shall not be deemed to impose any Liability on any Person who may have received any Money on such Alienation as a Trustee, so far as relates to Money which he may have duly applied in execution of the Trusts reposed in him.

Trust Money in Purchase of Lands to be settled to certain Uses.

**32.** Where any married Woman is desirous of making any Application, giving any Consent, or doing any Act, or becoming Party to any Proceeding under this Act, her Husband's Concurrence shall be required, and she shall be examined apart from her Husband touching her Knowledge of the Nature and Effect of the Application or other Act, and it shall be ascertained that she is acting freely and voluntarily; and such Examination may be taken by the Court or such Persons as are authorized to take Acknowledgments of Deeds by married Women under the Act of the Session holden in the Third and Fourth Years of King William the Fourth, Chapter Seventy-four, "for the Abolition of Fines and Recoveries, and for the "Substitution of more simple Modes of Assurance;" and the Form and Manner in which such Examination shall be certified to the Court shall be determined by the General Rules and Orders to be made under this Act: Provided always, that a married Woman entitled to her separate Use, and not restrained from Anticipation, shall for the Purposes of this Act be deemed a Feme Sole.

Provision as to married Women.

3 & 4 W. 4. c. 74.

**33.** Where any Person who (if not under Disability) might have made any Application, given any Consent, done any Act, or been Party to any Proceeding under this Act, is a Minor, Idiot, or Lunatic, the Guardian or Committee of the Estate respectively of such Person may make such Applications, give such Consents, do such Acts, and be Party to such Proceedings, as such Person respectively, if free from Disability, might have made, given, done, or been Party to, and shall otherwise represent such Person for the Purposes of this Act: Provided always, that where there is no Guardian or Committee of the Estate of any such Person as aforesaid, being infant, idiot, or lunatic, or where any Person the Committee of whose Estates if he were idiot or lunatic would be authorized to act for and represent such Person under this Act is of unsound Mind or incapable

Provision for other Persons under Disability.

of managing his Affairs, but has not been found idiot or lunatic under an Inquisition, it shall be lawful for the Court to appoint a Guardian of such Person for the Purpose of any Proceedings under this Act, and from Time to Time to change such Guardian.

Proceedings not to abate by Death, &c.

**34.** Proceedings under this Act shall not abate or be suspended by any Death or Transmission or Change of Interest, but in any such Case of Death or Transmission or Change of Interest it shall be lawful for the Court, where it sees fit, to require Notices to be given to Persons becoming interested, or to make any Order for discontinuing, suspending, or carrying on the Proceedings, or otherwise in relation thereto, which to the Court may appear just.

Power to Lord Chancellor, &c. to make Rules and Orders.

**35.** The Lord Chancellor, with the Advice and Assistance of the Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors, or of any Three of them, shall from Time to Time make such General Rules and Orders as he may see fit for carrying the Purposes of this Act into effect, and for regulating the Times and Form and Mode of Procedure, and of giving Notices, and generally the Practice of the Court in respect of the Matters to which this Act relates; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authorities respectively; and all such Rules and Orders shall take effect as General Orders of the Court.

Court of Chancery to adopt Rules in Schedule until General Rules are framed.

**36.** Until any General Rules and Orders shall be framed under the last preceding Section, the Rules and Orders set forth in the Schedule hereto annexed shall be taken to be Rules and Orders of the Court of Chancery, but the same shall be liable to be rescinded or altered as if they had been made by the Lord Chancellor, with such Advice and Assistance as in the last preceding Section is mentioned.

Lord Chancellor may appoint additional Clerks.

**37.** It shall be lawful for the Lord Chancellor from Time to Time to appoint such additional Clerks as to him may seem necessary for enabling the Court duly to execute the Duties imposed on it, and every such additional Clerk shall receive out of the Suitors Fee Fund such Salary as the Lord Chancellor, with the Consent of the Lords of the Treasury, may think proper.

Rules and Orders to be laid before Parliament.

**38.** All General Rules and Orders made as aforesaid, including all Orders for the Appointment of any additional Clerks, shall, immediately after the making and issuing thereof, be laid before both Houses

Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within Twenty-one Days after the next Meeting thereof; and it shall be lawful for either House of Parliament, by any Resolution passed within Six Weeks after such Rules or Orders have been laid before it, to resolve that the same or any Part thereof ought not to continue in force, and thereupon the same shall cease to be binding.

Penalty on making false Statement and Suppression of Deeds and Evidence.

**39.** If in the course of any Proceeding before the Court under this Act any Person acting either as Principal or Agent shall, knowingly and with Intent to deceive, make or assist or join in or be privy to the making of any material false Statement or Representation, or suppress, conceal, or assist or join in or be privy to the suppressing, withholding, or concealing from the Court any material Document, Fact, or Matter of Information, every Person so acting shall be deemed to be guilty of a Misdemeanor, and on Conviction shall be liable to be imprisoned for a Term not exceeding Three Years, and either with or without Hard Labour, or to be fined such Sum as the Court by which he is convicted shall award: The Order or Declaration of Title obtained by means of such Fraud or Falsehood shall be null and void for or against all Persons other than a Purchaser for valuable Consideration without Notice.

Penalty on fraudulent Alterations, &c.

**40.** If in the course of any Proceeding before the Court under this Act any Person shall fraudulently forge or alter or assist in forging or altering any Certificate or other Document relating to such Land or to the Title thereof, or shall fraudulently offer, utter, dispose of, or put off any such Certificate or other Document, knowing the same to be forged or altered, such Person shall be guilty of Felony, and upon Conviction shall be liable, at the Discretion of the Court by which he is convicted, to be kept in Penal Servitude for Life or for any Term not less than Three Years, or to be imprisoned for a Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Conviction not to affect Civil Remedy.

**41.** No Proceeding or Conviction for any Act hereby declared to be a Misdemeanor shall affect any Remedy which any Person aggrieved by such Act may be entitled to, either at Law or in Equity, against the Person who has committed such Act.

Enactment of Penalty not to exclude Obligation to make Discovery.

**42.** Nothing in this Act contained shall entitle any Person to refuse to make a complete Discovery by Answer to any Bill in Equity, or to answer any Question or Interrogatory in any Civil Proceeding, in any Court of Law or Equity, or in the Court of Bankruptcy; but no Answer to any such Bill, Question, or Interrogatory shall

be admissible in Evidence against such Person in any Criminal Proceeding.

Construction of Terms, &c. in this Act: "Person:" "Possession:" "Land."

**43.** In the Construction of this Act (except where the Context or other Provisions of the Act require a different Construction) the Word "Person" shall include a Body Politic or Corporate; the Word "Possession" shall include Receipt of the Rents and Profits; and the Word "Land" shall not include any incorporeal Hereditaments, but shall include all corporeal Tenements and Hereditaments not expressly excepted.

Extent of Act. Short Title.

**44.** This Act shall relate to England only, and shall come into operation on the First Day of January One thousand eight hundred and sixty-three, and may be cited as "The Declaration of Title Act, 1862."

SCHE-

## SCHEDULE.

1. Every Petition for a Declaration of Title shall contain an exact Description in their actual State of the Lands as to which the Declaration is sought, stating particularly the Boundaries thereof, and the Lands on which the same and every Part thereof abut, and, so far as conveniently may be, the Names and Descriptions of the Owners and Occupiers of such last-mentioned Lands.

2. On the Investigation of the Title to the Lands as to which the Declaration is sought, the Identity of the Lands described in the Petition, with the Parcels as described in the Title Deeds, shall be established by Affidavit or otherwise, as the Court may deem just.

3. The Court may, if it shall deem it necessary or proper, require the Petitioner to lodge in Court a Map or Plan of the Lands in question.

4. The Petitioner, after obtaining the Order for a Declaration of Title, shall cause a Copy thereof, together with the Description of the Lands in question, with any engraved or lithographed Plan thereof (if any exists) to be served on every adjoining Occupier and Owner, or on such of them and on such other Persons (if any) as the Court may direct to be so served.

5. He shall also cause a Copy or Copies thereof to be deposited in some Office or Place, Offices or Places, to be appointed by the Court on or near to the Lands in question, to be accessible at all reasonable Times to all Persons desirous of examining the same, and Notice of every such Deposit shall be affixed in some Public Place or Places on or near to the Lands in question.

6. Every such Copy served on any adjoining Occupier or Owner, or deposited as aforesaid, shall state that any Person wishing to show Cause against the making of the proposed Declaration may do so by presenting a Petition in a summary Way to the Court of Chancery at any Time before the Day appointed for making the proposed Declaration.

7. The Petitioner, after such Deposit shall have been made, shall cause Advertisements to be inserted Three Times at least in such Newspapers on such Days as the Court shall direct, stating the said Order, and stating also where any Copy has been so deposited for Inspection.

8. Unless the last of such Advertisements is made within Four Weeks next after the Date of the Order, the Time thereby fixed for showing Cause against the same shall be enlarged for One Calendar Month, or such further Time as the Court shall direct.

# Declaration of Title.

A

# BILL

INTITULED

An Act for obtaining a Declaration of Title.

(*Brought from the Lords* 6 *May* 1862.)

*Ordered, by* The House of Commons, *to be Printed*, 6 *May* 1862.

[Bill 102.]

*Under 2 oz.*

A

# BILL

TO

## Amend the Law relating to the giving of Aid to discharged Prisoners.

WHEREAS by the Thirty-ninth Section of an Act passed in the Session holden in the Fourth Year of King George the Fourth, Chapter Sixty-four, intituled "An Act for "consolidating and amending the Laws relating to the building, "repairing, and regulating of certain Gaols and Houses of Cor- "rection in England and Wales," and herein-after referred to as "the Gaol Act," it is provided that it should be lawful for any One or more of the Visiting Justices of any Prison to which that Act extended, from whence any Prisoner should be discharged, to direct that such moderate Sum of Money should be given and paid to any and every such Prisoner so discharged who should not have the Means of returning to his or her Family or Place of Settlement, or resorting to any Place of Employment or honest Occupation, as, in the Judgment of such Justice or Justices, should be requisite and necessary for such Purpose, under all the Circumstances attending the Case of any such Prisoner; and that such Sum of Money should be paid by the Keeper of such Prison, to or for the Use of such Prisoner for the Purpose aforesaid, and that all such Sums should be provided for, either out of such Bequests or Benefactions as therein mentioned, or in such Manner as is by the Gaol

Preamble.

4 G. 4. c. 64. (1823.)

Act directed with respect to the Expense of the Support and Maintenance of the Prisoners in the Prisons to which such Act extends: And whereas divers Societies, herein-after referred to as "Discharged Prisoners Aid Societies," have been formed in divers Parts of England, by Persons subscribing voluntarily, for the Purpose of finding Employment for discharged Prisoners, and enabling them by Loans and Grants of Money to live by honest Labour: And whereas it is expedient that Power should be given to the Visiting Justices of Prisons to give Aid under the said Act to discharged Prisoners through the Medium of a Discharged Prisoners Aid Society, in Cases where such Society has been previously certified by the Justices having Jurisdiction over such Gaol or House of Correction, at some Court of General or Quarter Sessions held by them, to be a Society approved of by them: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Power for Justices to certify Approval of Prisoners Aid Societies.

**1.** The Justices having Jurisdiction over any Gaol or House of Correction to which the Gaol Act extends may, at any Court of General or Quarter Sessions, upon the Application of any One or more Member or Members of a Prisoners Aid Society, and after examining the Rules of such Society, and receiving such Evidence as they think fit as to the Condition of such Society, issue a Certificate under the Hand of their Chairman to the Effect that such Society is approved of by them for the Purposes of this Act; and they may, at any future Court of General or Quarter Sessions, upon due Cause shown, by a Writing under the Hand of their Chairman, revoke or suspend such Certificate; and any Society in respect of which such Certificate as aforesaid has been granted and remains in force shall be deemed to be a "Certified Prisoners Aid Society," and to be entitled to such Privileges as are herein-after mentioned.

Relief may be afforded by "Certified Prisoners Aid Society."

**2.** Where a Prisoner is discharged from any Prison to which the said Gaol Act extends, the Visiting Justices of such Prison may, if they think fit, make an Order under the said Thirty-ninth Section of the said Act, directing Payment of any Sum not exceeding *Two Pounds* to be made to any certified Prisoners Aid Society for the Benefit of such Prisoner, instead of making the Order for Payment of the Sum to the Keeper of such Prison to or for the Use of such Prisoner; but the Society, in the event of the Misconduct of the discharged Prisoner or other sufficient Cause, may withhold such Money from him, and any Money so withheld shall be applied for the Benefit of discharged Prisoners, as the Visiting Justices may direct.

**3.** Any

**3.** Any Payments made to a certified Prisoners Aid Society under this Act in respect of any discharged Prisoner shall be provided for in the same Manner as is by the said Gaol Act directed with respect to the Support and Maintenance of Prisoners in the Prison from which such Prisoner was discharged. Funds out of which Repayments provided.

**4.** The aggregate Amount to be expended in any One Year, in pursuance of any Order of Visiting Justices made under this Act and the above-mentioned Sections of the Gaol Act, or either of such Acts, in respect of Prisoners discharged from any Prison, shall not exceed such Sum as may for the Time being have been determined by the Justices, Municipal Councils, or other Authorities having Jurisdiction to make the Rate out of which such aggregate Amount is to be paid. Limit of aggregate Amount to be expended on Prisoners.

# Discharged Prisoners Aid.

A

# BILL

To amend the Law relating to the givin of Aid to discharged Prisoners.

(*Prepared and brought in by Mr. Adderley and Mr. Scholefield*).

*Ordered, by* The House of Commons, *to be Printed*, 12 *May* 1862.

[Bill 110.]

*Under* 1 *oz.*

A

# BILL

[AS AMENDED IN COMMITTEE]

TO

## Amend the Law relating to the giving of Aid to discharged Prisoners.

WHEREAS by the Thirty-ninth Section of an Act passed in the Session holden in the Fourth Year of King George the Fourth, Chapter Sixty-four, intituled "An Act for consolidating and amending the Laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in England and Wales," and herein-after referred to as "the Gaol Act," it is provided that it should be lawful for any One or more of the Visiting Justices of any Prison to which that Act extended, from whence any Prisoner should be discharged, to direct that such moderate Sum of Money should be given and paid to any and every such Prisoner so discharged who should not have the Means of returning to his or her Family or Place of Settlement, or resorting to any Place of Employment or honest Occupation, as, in the Judgment of such Justice or Justices, should be requisite and necessary for such Purpose, under all the Circumstances attending the Case of any such Prisoner; and that such Sum of Money should be paid by the Keeper of such Prison, to or for the Use of such Prisoner for the Purpose aforesaid, and that all such Sums should be provided for, either out of such Bequests or Benefactions as therein mentioned, or in such Manner as is by the Gaol Act

Preamble.

4 G. 4. c. 64. (1823.)

Act directed with respect to the Expense of the Support and Maintenance of the Prisoners in the Prisons to which such Act extends: And whereas divers Societies, herein-after referred to as "Discharged Prisoners Aid Societies," have been formed in divers Parts of England, by Persons subscribing voluntarily, for the Purpose of finding Employment for discharged Prisoners, and enabling them by Loans and Grants of Money to live by honest Labour: And whereas it is expedient that Power should be given to the Visiting Justices of Prisons to give Aid under the said Act to discharged Prisoners through the Medium of a Discharged Prisoners Aid Society, in Cases where such Society has been previously certified by the Justices having Jurisdiction over such Gaol or House of Correction, at some Court of General or Quarter Sessions held by them, to be a Society approved of by them: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Power for Justices to certify Approval of Prisoners Aid Societies.

**1.** The Justices having Jurisdiction over any Gaol or House of Correction to which the Gaol Act extends may, at any Court of General or Quarter Sessions, upon the Application of any One or more Member or Members of a Prisoners Aid Society, and after examining the Rules of such Society, and receiving such Evidence as they think fit as to the Condition of such Society, issue a Certificate under the Hand of their Chairman to the Effect that such Society is approved of by them for the Purposes of this Act; and they may, at any future Court of General or Quarter Sessions, upon due Cause shown, by a Writing under the Hand of their Chairman, revoke or suspend such Certificate; and any Society in respect of which such Certificate as aforesaid has been granted and remains in force shall be deemed to be a "Certified Prisoners Aid Society," and to be entitled to such Privileges as are herein-after mentioned.

Clause A. Relief may be afforded by "Certified Prisoners Aid Society."

**2.** Where a Prisoner is discharged from any Prison to which the said Gaol Act extends, the visiting Justices of such Prison, instead of directing that such moderate Sum of Money shall be paid by the Keeper of such Prison to or for the Use of such Prisoner for the Purpose aforesaid, may if they think fit direct that such Sum, not exceeding in any Case Pounds, shall be paid to the Treasurer of a certified Prisoners Aid Society on their receiving from such Society an Undertaking in Writing, signed by the Secretary thereof, that the same shall be applied for the Benefit of such Prisoner: Provided that if it shall not be possible for the Society so to apply such Sum for the Benefit of such Prisoner, the same or so much thereof as shall not have been so applied shall be applied by such Society for the Benefit

of

of such other Prisoner or Prisoners discharged from the said Gaol as the said Visiting Justices shall direct.

CLAUSE B.

Funds out of which Repayments provided.

**3.** All Sums paid to a certified Prisoners Aid Society under this Act shall be provided for out of the same Funds and in the same Manner as is by the said Gaol Act directed with respect to the Sums therein authorized to be given or paid as herein-before recited to discharged Prisoners.

# Discharged Prisoners Aid.

A

# B I L L

[AS AMENDED IN COMMITTEE]

To amend the Law relating to the giving of Aid to discharged Prisoners.

(*Prepared and brought in by Mr. Adderley and Mr. Scholefield*).

*Ordered, by* The House of Commons, *to be Printed*, 5 *June* 1862.

[Bill 150.]

*Under* 1 *oz.*

A

# BILL

TO

## Make perpetual "An Act to amend the Procedure "and Powers of the Court for Divorce and "Matrimonial Causes."

WHEREAS an Act passed in the Session of Parliament held in the Twenty-third and Twenty-fourth Years of the Reign of Her Majesty, Chapter One hundred and forty-four, and intituled "An Act to amend the Procedure and Powers "of the Court for Divorce and Matrimonial Causes," is about to expire; and it is expedient to make the same perpetual: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same: Preamble. 23 & 24 Vict. c. 144.

There shall be repealed the Eighth Section of the said Act, whereby it is provided that the same is to continue in force until the Thirty-first Day of July One thousand eight hundred and sixty-two and no longer, and the said Act shall be and is hereby made perpetual. Recited Act made perpetual.

[Bill 194.]

# Divorce Court.

A

# BILL

To make perpetual "An Act to amend "the Procedure and Powers of the "Court for Divorce and Matrimonial "Causes."

(*Prepared and brought in by Mr. Attorney General, Mr. Solicitor General, and Sir George Grey.*)

*Ordered, by* The House of Commons, *to be Printed*, 7 *July* 1862.

[Bill 194.]

*Under* 1 *oz.*

A

# BILL

FOR

## The Amendment of the Law relating to the Drainage of Land in Ireland.

Preamble.

WHEREAS it is expedient that greater Facilities should be afforded for the Drainage of Lands in Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

*Preliminary.*

Short Title.

**1.** This Act may be cited for all Purposes as "The Land Drainage Act (Ireland), 1862."

Act to apply to Ireland only.

**2.** This Act shall extend to Ireland only.

Definition of Terms.

**3.** "Watercourse" shall include all Rivers, Streams, Drains, Sewers, and Passages through which Water flows:

"Person" shall include any Body of Persons, corporate or unincorporate, unless there is something in the Context inconsistent therewith:

"The Lord Lieutenant in Council" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland for the

the Time being, by and with the Advice of Her Majesty's Privy Council in Ireland:

"Owner," as used throughout this Act, shall have the same Meaning as it has in "The Lands Clauses Consolidation Act, 1845:"

"Land" shall extend to all Arable, Pasture, or otherwise profitable and to all waste uncultivated Land, and shall also extend to Messuages, Tenements, Mills, Weirs, Easements, and other Hereditaments, corporeal or incorporeal, and any Estate or Interest therein, and any undivided Part thereof.

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## PART I.

### *Elective Drainage Districts.*

Constitution of Elective Drainage Districts.

**4.** Any Persons or Body of Persons, corporate or unincorporate, being Proprietors of not less than *One Tenth* Part in Acreage of any Bog, Moor, or other Area of Land that requires a combined System of Drainage, Warping, or Irrigation, may, with the Consent of the Lord Lieutenant in Council, as herein-after mentioned, constitute such Bog, Moor, or other Area of Land a separate Drainage District.

Mode of constituting Elective Drainage District.

**5.** The following Proceedings shall be taken for the Purpose of obtaining the Sanction of the Lord Lieutenant in Council:

(1.) A Petition shall be presented to him, stating the proposed Boundaries of the District, by reference to a Map, or in such other Manner as the Lord Lieutenant in Council shall think expedient, and also stating the Exigencies which render the Formation of such Drainage District necessary: It shall be signed by such Proprietors as aforesaid, and be supported by such Evidence as the Lord Lieutenant in Council may require:

(2.) Upon the Receipt of such Petition, the Lord Lieutenant shall send an Officer, approved of by the Commissioners of Public Works in Ireland, as an Inspector, to the District, for the Purpose of making Inquiries as to the Propriety of constituting the proposed District, and as to the Assent of the Proprietors thereto:

(3.) The Inspector shall proceed to the District, and shall ascertain the Opinion of the Proprietors in respect to the Constitution of the District, and shall also make all necessary Inquiries with respect to the Propriety and Necessity of constituting such District, and also with respect to the Area of Land to be comprised therein:

(4.) The

(4.) The Inspector shall report the Result of his Inquiries to the Lord Lieutenant in Council, and he may, if satisfied with the Propriety of constituting the District, and that the Proprietors of *Two Third* Parts in Value of such Bog, Moor, or other Area are in favour thereof, make a Provisional Order declaring the Area in such Order mentioned to be a Drainage District:

(5.) Notice of the Provisional Order shall be published in the Dublin Gazette and in some other Newspaper circulating in the District to which it relates, and Copies thereof shall be served in such Manner and upon such Persons as the Lord Lieutenant in Council may require:

(6.) Upon the Receipt of the Report of the Inspector, the Lord Lieutenant may, by an Order in Council, constitute the Area mentioned in the Petition, with such Alterations of Boundaries, if any, as he may think fit, a separate Drainage District:

(7.) No Petition for constituting an Elective Drainage District under this Act shall be entertained until the Petitioners have given such Security for Costs as the Lord Lieutenant in Council shall require; and in the event of a Drainage District not being constituted in pursuance of a Petition, the Petitioners shall pay all Costs, Charges, and Expenses, including the Expense incurred by reason of the presenting of the Petition and of the Appointment of such Inspector; but in the event of the Drainage District being constituted, such Costs, Charges, and Expenses shall be a first Charge on the Rates leviable in the District in pursuance of this Act.

Evidence of Constitution of District.

**6.** The making of such last-mentioned Order shall be conclusive Evidence that all the Requirements of this Act in respect of Proceedings required to be taken previously to the making of such Order have been complied with.

Definition of Proprietors.

**7.** The following Persons shall be deemed to be Proprietors for the Purposes of this Act; that is to say,

(1.) Any Person seised or entitled in possession, for his own Benefit, at Law or in Equity, as Tenant in Fee Simple or in Fee Tail, General or Special, or as Tenant by Curtesy, and also any Person who shall be entitled under any Will or Settlement, Act of Parliament, or any other Deed or Instrument (except a Grant or Lease reserving Rent, or an Agreement in Writing for such Grant or Lease), for his own Life or the

Life of any other Person, or for Years determinable on such Life or Lives, and also any Person who shall be entitled under any Lease granted by a Bishop or any Collegiate or Ecclesiastical Body, or under any Lease granted by any Person having immediate or derivative Title from or under any Bishop, or any Collegiate or Ecclesiastical Body, which Lease shall contain a toties quoties Covenant of Renewal, and also any Person who shall be entitled for any like Estate in any Lands held under any Grant, Lease, or any other Deed or Assurance for an Estate in Fee or for a Term of Years absolute, whereof *Forty* Years or more shall be unexpired, or for an Estate or Interest for any Life or Lives, renewable for ever, or for any Term or Terms of Years, renewable for ever:

(2.) Any Body Corporate, any Corporation Sole, any Trustees for Charities, and any Commissioners or Trustees for Ecclesiastical, Collegiate, or other public Purposes, entitled, at Law or in Equity, in the Case of Freehold Estates or Copyhold Estates, in Fee, and in the Case of Leasehold Estates, to a Lease for an unexpired Term of not less than *Sixty* Years.

Trustees to be deemed Proprietors in certain cases.

**8.** Where any Proprietor, as herein-before defined, is a Minor, or of unsound Mind, or a married Woman, the Guardian, Committee, or Husband, as the Case may be, of such Proprietor, shall be the Proprietor within the Meaning of this Act; subject to this Proviso, that a married Woman entitled for her separate Use, and not restrained from Anticipation, shall, for the Purposes of this Act, be treated as if she were not married.

Provision as to Proprietorship by Corporations and Companies.

**9.** Where a Corporation Aggregate, a Joint Stock or other Company, or any Body of Proprietors or Undertakers, is Proprietor of any Land, such Corporation, Company, Body of Proprietors or Undertakers respectively, shall be deemed to be One Proprietor for the Purpose of giving an Assent or Dissent under this Act, and may express their Assent or Dissent in Writing under their Common Seal in the Case of a Corporation, and in any other Case under the Hands of Three Directors or other Persons in the Direction or Management of the Company or Concern; but no Member of such Corporation, nor Proprietor or Person interested in such Company or Concern, shall be entitled to dissent individually as a Proprietor in respect of such Land.

Provision as to Joint Proprietors.

**10.** Where several Persons are Proprietors of Land as Joint Tenants, Coparceners, or Tenants in Common in undivided Moieties, they

they shall in respect of such Land be accounted as One Proprietor, but the Concurrence of the Proprietors of *Two Third* Parts of such Land shall be deemed to be the Concurrence of the whole.

Provision in case of no Proprietor.

**11.** When any Portion of Land comprised within the Boundaries referred to in any such Petition as is herein-before mentioned appears to have no Proprietor, within the Meaning of this Act, or the Proprietor cannot be found, the Land so circumstanced shall be altogether excluded in any Computation that may be made of the Proportion borne by the dissenting Proprietors of any Area of Land, as herein-before provided, to the aggregate Number of the Proprietors of such Land.

Powers of Inspector.

**12.** Any Inspector sent by the Lord Lieutenant in Council, in pursuance of this Act, may, by himself and his Servants, enter upon any Lands, in order to obtain Information upon any of the Matters aforesaid, and may do all such Things as to him shall seem expedient and necessary for the Purposes of his Inspection and Report, making reasonable Compensation for any Injury which may be done by him or his Servants, and he may also, by Summons under his Hand, require to appear before him any Persons whomsoever, and examine them upon Oath or otherwise touching any Matter relating to the Purposes of the Inquiry, and he may by any such Summons require any Officer of or acting under any Corporation or Guardians of the Poor, and any Commissioner, Trustee, Officer, or Person acting under any Local Act of Parliament in force within the District to which any such Inquiry may relate, or the Commissioners of Public Works in Ireland, to produce before him any Surveys, Plans, Sections, Rate Books, or other like Documents which may by reason of their Office be in their Custody or Control, touching any Matter relating to the Purposes of such Inquiry; and such Inspector may examine, inspect, or take Copies of any such Books, Surveys, Plans, Sections, and Documents, or any of them, or Part thereof; and whosoever refuses to permit any such Inspector or his Servants to do any of the Matters aforesaid, or wilfully disturbs or interferes with him or them in the course of their Inspection, or wilfully disobeys any such Summons, or prevents any such Inspector from examining, inspecting, or taking Copies as aforesaid, or refuses to answer any Question put to him by such Inspector for the Purposes of the said Inquiry, shall be liable to a Penalty not exceeding *Five Pounds* for every such Offence, to be recovered in a summary Manner before Two Justices of the Peace sitting at Petty Sessions in any District within the Jurisdiction of which any of the Lands in the proposed Drainage District are situate, but no Person shall be required to attend before the Inspector in

obedience to any Summons unless the reasonable Charges of his Attendance have been paid or tendered to him.

Constitution of Drainage Boards.

**13.** The Superintendence of Matters relating to Drainage within a Drainage District shall be vested in a Board, herein-after called a Drainage Board, and such Board shall be a Body Corporate, with perpetual Succession and a Common Seal, having a Capacity to hold Lands for all the Purposes of their Constitution.

Regulations as to Drainage Boards.

**14.** Subject to any Provisions to the contrary that may be made by the Order constituting the District, the following Regulations shall be made with respect to Drainage Boards:

(1.) The Members of the First Drainage Board shall be named in the Order constituting the Drainage District, and such Order shall fix the Number of which the Board is to consist, the Mode of summoning the First Meeting of the Board, the Qualification of subsequent Members of the Board, and the Time at which the First Members of the Board are to vacate their Offices, such Time not being later than the End of the Month of September in the Year following that in which such Order is made:

(2.) The Members of every Board succeeding the First Board shall vacate their Officers on the First Thursday in September in each succeeding Year, or on such other Day in September as may be prescribed by the Board:

(3.) The Offices of vacating Members shall be filled up by an equal Number of qualified Persons, to be elected as herein-after mentioned:

(4.) Every Member of a Drainage Board going out of Office shall be re-eligible; and if at any Time when an Election of Members ought to take place the Places of any retiring Members are not filled up, the retiring Members whose Places are not filled up shall continue in Office until the succeeding Year:

(5.) Any casual Vaccancy occurring in the Board may be filled up by the Board; but any Person so chosen shall retain his Office so long only as the vacating Member would have retained the same if no Vacancy had occurred:

(6.) During any Vacancy in the Board the continuing Members shall act as if such Vacancy had not occurred:

(7.) If a Member of a Drainage Board is adjudged bankrupt, or applies to take the Benefit of any Act for the Relief or Protection of Insolvent Debtors, or compounds with his Creditors, such Person shall cease to be a Member

Member of the Board, and his Office shall thereupon be vacant:

(8.) Any Person who acts as Member of a Drainage Board without being duly qualified, or after he has become disqualified, shall incur a Penalty not exceeding *Fifty Pounds*; and in any Proceeding for the Recovery of such Penalty the Burden of proving Qualification shall be upon the Person against whom such Proceeding is taken:

(9.) All Acts done by any Meeting of a Drainage Board or of any Committee of a Drainage Board, or by any Person acting as a Member of a Drainage Board, shall, notwithstanding it may be afterwards discovered that there was some Defect in the Appointment of any such Board or Persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Member.

Rules to be observed with respect to Electors of Drainage Boards.

**15.** Subject to any Provisions to the contrary that may be made by the Order constituting the District, the following Rules shall be observed with respect to the Electors of Drainage Boards:

(1.) The Electors for Members of a Drainage Board for any District shall be the Proprietors within such District liable to be rated by the Drainage Board:

(2.) Each Elector shall vote according to the following Scale; that is to say,

If the Property in respect of which he is liable to be rated shall be of an annual Value of less than *Fifty Pounds*, he shall have *One* Vote:

If such annual Value amount to *Fifty Pounds* and be less than *One hundred* Pounds, he shall have *Two* Votes:

If it amount to *One hundred* Pounds and be less than *One hundred and fifty* Pounds, he shall have *Three* Votes:

If it amount to *One hundred and fifty* Pounds and be less than *Two hundred* Pounds, he shall have *Four* Votes:

If it amount to *Two hundred Pounds* and be less than *Two hundred and fifty Pounds*, he shall have *Five* Votes:

If it amount to *Two hundred and fifty* Pounds, he shall have *Six* Votes:

If it amount to *Five hundred* Pounds and be less than *One thousand* Pounds, he shall have *Eight* Votes:

If it amount to or exceed *One thousand* Pounds, he shall have *Ten* Votes.

How Value is to be ascertained.

**16.** For the Purposes of ascertaining the annual Value in the last preceding Section mentioned, and also for the Purposes of ascertaining the Proportions of assenting or dissenting Proprietors under any of the Provisions of this Act, the General Valuation upon which the Rates for the Relief of the Poor are for the Time being levied upon such Property shall be binding and conclusive on the Drainage Board and all Persons concerned.

Mode of Election of Drainage Boards, and Proceedings thereof.

**17.** Subject to any Provisions to the contrary that may be made by the Order constituting the District, the Mode of electing Members of Drainage Boards and the Proceedings of Drainage Boards shall be conducted in manner directed by the Schedule annexed hereto.

Certain Provisions of 10 & 11 Vict. c. 16. incorporated.

**18.** The Provisions of the Commissioners Clauses Act, 1847, with respect to—

(1.) The Contracts to be entered into and Deeds to be executed by the Commissioners;

(2.) The Liabilities of the Commissioners, and to legal Proceedings by or against the Commissioners;

(3.) The Appointment and Accountability of Officers of the Commissioners;

(4.) The Accounts to be kept by the Commissioners;

(5.) The giving Notices and Orders,

shall be incorporated with this Part of this Act; and in the Construction of this Part of this Act and the said incorporated Provisions, Part One of this Act, and the Order in Council incorporating the Drainage District, shall together constitute "the Special Act."

Mode of Election of Drainage Boards, and Proceedings thereof.

**19.** Subject to any Provisions to the contrary that may be made by the Order constituting the District, the Mode of electing Members of Drainage Boards, and the Proceedings of Drainage Boards, shall be conducted in manner directed by the Schedule annexed hereto.

*General Powers of Drainage Boards.*

Declaration of Powers of Commissioners.

**20.** The Powers of Drainage Boards acting within their Jurisdiction shall extend to the following Acts:

(1). To

(1.) To cleansing, repairing, or otherwise maintaining in a due State of Efficiency any existing Watercourse or Outfall for Water, or any existing Wall or other Defence against Water, herein-after referred to under the Expression "Maintenance of existing Works:"

(2.) To deepening, widening, straightening, or otherwise improving any existing Watercourse or Outfall for Water, or removing Mill Dams, Weirs, or other Obstructions to Watercourses or Outfalls for Water, or raising, widening, or otherwise altering any existing Wall or other Defence against Water, herein-after referred to under the Expression "Improvement of existing Works:"

(3.) To making any new Watercourse or new Outfall for Water, or erecting any new Defence against Water, to erecting any Machinery or doing any other Act not hercin-before referred to, required for the Drainage, necessary Supply of Water for Cattle, [Warping or Irrigation] of the Area comprised within the Limits of their Jurisdiction, herein-after referred to under the Expression "the Construction of new Works:"

(4.) To make Surveys and Valuations, and to do all other Matters and Things which may be necessary for the Investigation and Execution of the above Works, or of any other Works under this Act:

(5.) To enter upon Lands by themselves, their Servants and Workmen, for the Execution of and carrying into effect the Powers conferred upon them by this Act:

Provided,

(1.) That no Person shall by virtue of this Act be compelled to execute, at his own Expense, any Works which he would not have been compelled to execute if this Act had not passed:

(2.) That no Work shall be deemed to be a new Work that is in substitution for an old one, in Cases where such old Work is so much out of Repair or so inefficient as to make it expedient to construct a new Work in place thereof:

(3.) That full Compensation shall be made for all Injury sustained by any Person by reason of the Exercise by the Commissioners of the above Powers in the Manner herein-after mentioned:

(4.) That the Exercise of the foregoing Powers shall be subject to the Restrictions herein-after mentioned.

Restrictions as to Obstructions.

**21.** Drainage Boards shall not be entitled to remove or otherwise interfere with any Mill Race, Mill Dam, Weir, or other like Obstruction, whereby the Level of the Water is raised for any milling

or other Purpose of Profit, so as to injuriously affect the Supply of Water, otherwise than with the Consent of the Owner of such Mill Dam, Weir, or other like Obstruction, until the following Things have been done; that is to say,

(1.) That it shall have been proved to the Satisfaction of the Arbitrator, to be appointed as herein-after mentioned, that the proposed Removal or Interference is necessary for the effectual Drainage of Land within the Jurisdiction of the Drainage Board:

(2.) That it shall have been in like Manner proved that any Injury that may be caused by the Removal or Interference is of a Nature to admit of being fully compensated for by Money.

Consequences of Arbitrator's Decision.

**22.** If the Decision of such Arbitrator is that such Removal or Interference is necessary, and that any Injury that may be caused can be fully compensated by Money, the Drainage Board shall be at liberty to make the same, upon making Compensation, to be ascertained as herein-after mentioned.

Notice to be given of certain Works.

**23.** Previously to commencing any Improvements in existing Works, or any new Works, where such Improvements or new Works involve an Expenditure of more than *One thousand* Pounds, the Drainage Board shall cause Plans of the proposed Work, and an Estimate of the Expense thereof, and of the Area within which a Rate will be required to be levied to meet such Expense, to be made, together with a List of the Names and Addresses of the Persons reputed to be Proprietors of the Land within such last-mentioned Area, with the Addition of the annual Value of the Lands of which each Person is reputed to be the Proprietor, and shall publish their Intention to execute such Works *One* Month before commencing the same, in manner following; that is to say,

By inserting in some Newspaper circulating within the Limits of their Jurisdiction, *once* in every Week during such Month, a Notice explaining briefly the Nature of the Work, the Amount of Expense to be incurred, and the Area of Land within which a Rate is proposed to be levied for meeting such Expense, describing such Area by Reference to a deposited Plan, or by Boundaries, or in such other Manner as the Drainage Board may think best calculated to give Information of their Intention, and stating a Place within the Limits of their Jurisdiction at which the Plan and Estimate of the Works and the List of reputed Proprietors may be inspected at all reasonable Hours:

By depositing a Copy of such Plans, Estimates, and Lists at the Office of the Commissioners of Public Works in Ireland, and another

another Copy of said Plans, Estimates, and Lists, or so much thereof as relates to every County in or through which the proposed Works are situate, with the Clerk of the Peace of each such County, and another Copy of so much of the said Plans, Estimates, and Lists as relates to each Electoral Division in which any such Lands shall be situate, with the Clerk of the Poor Law Union in which every such Electoral Division is situate.

Correction of List of Proprietors.

**24.** Any Person interested may, at any Time before the Expiration of such Month as aforesaid, apply to the Drainage Board to correct the List of reputed Proprietors, by inserting or expunging the Name of any Person, or by altering the annual Value appropriated by such List to any Proprietor, and the Drainage Board shall hear any Application so made, and shall amend the List accordingly, and the Decision of the Drainage Board in respect of such List shall be final; and at the Expiration of the Period of *One* Month, or of such further Period as the Drainage Board may fix for the Purpose of hearing any Application made within such Period of *One* Month, the List as settled by the Drainage Board shall be conclusive Evidence of Proprietorship for the Purpose of ascertaining the Proportion of dissenting Proprietors as herein-after mentioned.

Dissent of Proprietors of more than One Third of Area conclusive against new Works.

**25.** If within such Period of *One* Month the Proprietors of more than *One Third* in Value of the Land within which a Rate is according to the Notice proposed to be levied declare in Writing to the Drainage Board, by Notice left at their Office, that they are unwilling that such Work should be executed, the Drainage Board shall take no further Steps therein; but if no such Declaration of Dissent is made, the Drainage Board may, at the Expiration of such Period of *One* Month, but subject to the Restrictions herein-after mentioned, in the Case of Works by which any Mill Race, Mill Dam, Weir, or other like Obstruction is proposed to be removed or interfered with, commence the proposed Works, and repay out of the Rates to be levied by them within the Area all Expenses incurred, not exceeding the Estimate published in the Notice.

Provision in case of no Proprietor.

**26.** If the Drainage Board is unable to discover the Proprietor of any Lands, they shall give Notice to that Effect in the List of reputed Proprietors made by them, and such Land shall, in the event of no Proprietor proving his Title to have his Name inserted in the List before the Period herein-before named for the Completion of the List, be altogether excluded in any Computation that may be made of the Proportion borne by the dissenting Proprietors of any Area of Land as herein-before provided to the aggregate Number of the Proprietors of such Land.

 **27.** Where

Proceedings to be taken to entitle Drainage Boards to remove Mill Dams, &c. without Consent.

**27.** Where by any such Improvements in existing Works or any new Works it is proposed to remove or otherwise interfere with any Mill Race, Mill Dam, Weir, or other like Obstruction, whereby the Level of the Water is raised for any milling or other Purpose of Profit, so as to injuriously affect the Supply of Water, otherwise than with the Consent of the Owner of such Mill Race, Mill Dam, Weir, or other like Obstruction, or otherwise injuriously to affect any Lands, the Drainage Board shall, before executing any such Works, cause Plans and Estimates of the proposed Works, and of the Compensation to be made to the Parties interested for all Injuries to be sustained by reason of the Execution thereof, to be made out, and Copies thereof to be deposited in the Manner herein-before mentioned with the Commissioners of Public Works, Clerks of the Peace, and Clerks of Unions respectively.

Commissioners of Public Works to appoint an Arbitrator, on Application of Drainage Board.

**28.** After such Deposit as is lastly provided at the Office of the said Commissioners as aforesaid, it shall be lawful for the said Commissioners, upon the Application of the Drainage Board, to appoint an Arbitrator between the Drainage Board and the Persons affected by the proposed Works to which such Plans and Estimates relate, and such Arbitrator shall, in relation to the Works to be made by the Drainage Board, as herein mentioned, be the Arbitrator under this Act; and if any such Arbitrator die, or refuse, decline, or become incapable to act, the said Commissioners may appoint an Arbitrator in his Place, who shall have the same Powers and Authorities as the Arbitrator first appointed.

Arbitrator may call for Documents, and administer Oaths.

**29.** The Arbitrator may call for the Production of any Documents in the Possession or Power of the Drainage Board, or of any Party making any Claim under the Provisions of this Act, which such Arbitrator may think necessary for determining any Question or Matter to be determined by him under this Act, and may examine any such Party and his Witnesses, and the Witnesses for the Drainage Board, on Oath, and administer the Oaths necessary for that Purpose.

Arbitrator to make and subscribe Declaration.

**30.** Before any Arbitrator shall enter upon any Inquiry he shall, in the Presence of a Justice of the Peace, make and subscribe the following Declaration; that is to say,

'I *A.B.* do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of the Act [*naming this Act*]. *A.B.*

'Made and subscribed in the Presence of

And

And such Declaration shall be annexed to the Award when made; and if any Arbitrator, having made such Declaration, wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

Proceedings to ascertain Compensation for Injuries.

**31.** Upon the first Appointment of such Arbitrator, the Plans and Estimates which have been deposited with the Commissioners as last aforesaid shall be delivered to him by the Commissioners; and thereupon the Drainage Board shall take the same Steps with respect to publishing of Notices in all respects as are required by the Railways Act (Ireland), 1851, and the Railway Act (Ireland), 1860, to be taken by a Railway Company upon the Appointment of an Arbitrator under those Acts, and the same Proceedings shall be thereupon taken by such Arbitrator and Drainage Board respectively as are by the said Acts required to be taken in the Case of Lands to be taken or Works to be done by a Railway Company; and the Arbitrator shall decide upon the Questions specified in the Twenty-first Section of this Act, and also upon the Compensation to be paid for injuriously affecting any Estate or Interest of any Person or Persons in any Lands by reason of the Execution of the proposed Works; and such Compensation shall be ascertained, and the Amount thereof, when ascertained, shall be paid and recoverable in the same Manner, and subject to the same Restrictions and Conditions in all respects, as is by the said Acts provided in the Case of Compensation for Lands injuriously affected by the Works proposed to be made by any Railway Company: Provided always, that any Person dissatisfied with the Decision of the Arbitrator upon the Questions mentioned in the Twenty-first Section of this Act shall have the same Right of Traverse in respect of such Decision as is by the said Acts provided in respect of the Compensation to be paid for injuriously affecting any Lands by the Company.

Provisions of Railways Acts (Ireland), 1851 and 1860, as to Ascertainment of Claims, incorporated.

**32.** For the Purpose of ascertaining such Compensation, the Railways Act (Ireland), 1851, and Railways Act (Ireland), 1860, shall be incorporated with this Act; and in the Interpretation of those Acts, save in so far as the same is hereby otherwise provided, the Expression "the Company" shall be taken to mean the Drainage Board incorporated and acting under the Provisions of this Act.

Oath of Jury on Trial of Traverse.

**33.** The Jury which shall try any Traverse under this Act shall be sworn a true Verdict to give upon the Questions mentioned in the Twenty-first Section of this Act in Cases where the Decision of the Arbitrator upon such Questions shall be traversed, and also whether any and what Damages will be sustained by the Traverser, regard being had to the Injury to any Lands of such Traverser injuriously affected by the Works of the Drainage Board, and also regard being had, in Cases

of Mills or Factories, to any Benefit resulting or which may result from any Improvement which shall be effected by the Execution of the Works in the Water Power of or Constancy of Supply of Water to such Mill or Factory, or by Relief from Back Water afforded to it, and in the Case of Lands to any estimated Benefit to be derived by such Lands from the Execution of the Works; and every Arbitrator and Jury to whom any Question shall be referred under this Act shall set off such Benefit or estimated Benefit against the Sum or Sums which shall be assessed by him or them for Compensation by reason of the Execution of the Works.

Compensation to be ascertained as before provided.

**34.** No Person shall be entitled to proceed at Law or in Equity for or in respect of any Compensation or Damages which he shall be entitled to by reason of any Works proposed to be executed by any Drainage Board, but the Right to such Compensation or Damages, and the Amount thereof, shall be ascertained in the Manner herein-before provided, and not otherwise.

Remuneration of Arbitrator.

**35.** The Salary or Remuneration, travelling and other Expenses, of the Arbitrator, including all Costs reasonably and properly incurred by him, shall be paid by the Drainage Board, and the Amount of such Costs, Charges, and Expenses shall from Time to Time be included in and form Part of the Expenses incidental to the Execution of the Works in the Districts in relation to which such Expenses shall be incurred, and shall be defrayed accordingly out of the Rates.

Arbitrator may direct by whom Costs to be paid.

**36.** It shall be lawful for the Arbitrator, where he thinks fit, to adjudicate by whom the Costs of such Arbitration shall be borne, and to certify the Amount of the Costs properly payable to the Party entitled thereto in relation to the Arbitration, and the Amount of the Costs so certified shall be paid by the Drainage Board or the Claimant, as the said Arbitrator may award.

*Compulsory Purchase of Lands.*

Restrictions as to Purchase of Land.

**37.** Drainage Boards shall not by virtue of this Act purchase any Land for new Works, otherwise than by Agreement with the Owner thereof, until they have obtained the Sanction of Parliament in manner herein-after mentioned.

Preliminaries before Application to Parliament.

**38.** Drainage Boards shall, before applying for the Sanction of Parliament for the last-mentioned Purpose, take the same Steps and Proceedings with respect to the Publication of Advertisements and the Service of Notices, and all other Particulars, as are by the Standing Orders of Parliament for the Time being required.

**39.** When

Compensation to be ascertained under Railways Acts (Ireland), 1851 and 1860.

**39.** When any Drainage Board shall have obtained the Sanction of Parliament as aforesaid, they shall take the same Proceedings for the Purpose of ascertaining the Purchase Money and Compensation to be paid by them in respect of the Lands to be taken or injuriously affected by Severance or otherwise as are by the Railways Act (Ireland), 1851, and the Railways Act (Ireland), 1860, required to be had and taken by Railway Companies under those Acts; and the Railways Act (Ireland), 1851, and the Railways Act (Ireland), 1860, shall, in respect of the Lands to be purchased, apply to every Drainage Board which shall have obtained the Sanction of Parliament in manner aforesaid, and for that Purpose shall be incorporated with this Act.

Construction of Terms in Railways Acts (Ireland), 1851 and 1860.

**40.** In the Construction of the said Railways Act (Ireland), 1851, and the Railways Act (Ireland), 1860, in connexion with this Act,—

The Expression "the Special Act," used in the said Acts, shall be taken to mean or apply to the Act of Parliament sanctioning the Purchase of Lands by the Drainage Board:

The Expression "the Railway," used in the said Acts, shall be taken to mean or apply to the Works proposed to be executed by the Drainage Board:

The Expression "the Company," used in the said Acts, shall be taken to mean the Drainage Board who shall have obtained the Sanction of Parliament for the Purchase of Lands in manner aforesaid.

*Existing Liabilities.*

Saving of existing Liabilities to repair.

**41.** The Liability of any Person whomsoever to defray or contribute towards the Expense of making, completing, altering, amending, or maintaining any Sewer or Drain, or any Walls or Works for protecting the Land against the Force or Encroachments of the Sea or of any River, or doing any other Work within the Jurisdiction of a Drainage Board, shall continue, and the same may be enforced as if this Act had not passed, and the Rates to be levied under this Act shall be made only for Purposes to which such Liability does not extend.

*Rating Powers.*

Regulations as to rating.

**42.** Drainage Boards shall have Power to levy Rates, subject to the following Regulations; that is to say,

First—As to the Purposes of the Rate:

Rates may be levied by Drainage Boards for defraying all Costs, Charges, and Expenses incurred or to be incurred by them under the Authority of this Act, or any Order incorporating such Boards:

Second—As to the Method of assessing the Rates:

In assessing any such Rate for the Purpose of defraying the Expenses of any Works, the Drainage Board shall have regard to the Value of the Lands in respect of which such Rate is proposed to be made previous to the Execution of the Works, and also to the actual or estimated increased Value of such Lands after the Execution of the Works, and the Amount of such Rate shall be assessed and levied by the Board in proportion to such actual or estimated increased Value:

Third—As to the Incidence of the Rates:

(1.) All Rates levied by the Board shall be payable by the Proprietors of the Lands benefited or proposed to be benefited by the Works, and in the Proportions in which they shall have been assessed by the Drainage Boards; and whenever the Name of any Proprietor liable to be rated is not known to the Drainage Board, it shall be sufficient to assess and designate him in the Rate as "the Proprietor" of the Land in respect of which the Assessment is made, without further Description:

(2.) Where the Proprietor of any Land makes default in paying the Amount of any Rate due from him, such Amount may be levied upon and Payment thereof enforced by Distress or otherwise against the Occupier of such Land, and his Goods and Chattels, in like Manner as if the same were a Rate due from such Occupier, with this Limitation, that no Occupier shall be liable to pay on account of any Proprietor any Sum exceeding the Rent due or that may accrue due by such Occupier during the Period of his Occupancy; and subject to this Proviso, that any Occupier may, in the Absence of any Agreement to the contrary, deduct the Sum so paid by him from any Rent due or to accrue due by such Occupier; and the Receipt of the Drainage Board for any Rate paid by the Occupier, under the Circumstances mentioned in this Section, shall, to the Extent of the Monies therein expressed to be paid, be a Discharge to such Occupier of an equivalent Amount of Rent:

Provided that when the Person to whom such Rent is payable is not himself a Proprietor, he may, in case of such Deduction by the Occupier, and in the Absence of any special Agreement to the contrary, deduct the same Amount from the Rent payable by him, and so on in like Manner that the Rate shall eventually be deducted from a Person or Persons liable thereto as a Proprietor or Proprietors

prietors within the Meaning of this Act, who shall not be entitled to make any Deduction in respect of such Rate from the Person or Persons, if any, to whom any Rent shall be payable by such Proprietor or Proprietors:

(3.) All Rates to be levied by Drainage Boards shall be a first Charge upon the Lands of the Proprietors drained or improved, or to be drained or improved, who shall have been assessed to such Rates, and that in preference to and with Priority over all Incumbrances on such Land, save such as by virtue of any Act or Acts of Parliament heretofore passed now are Charges upon any such Land: Provided nevertheless, that any Quit or Chief Rent issuing thereout, or other Incumbrance thereon existing, previously to the making of any such Rates, shall have Priority to such Rates, to the Extent of the Value of such Land before the Improvements were effected, but no further.

Advertisement of proposed Rates.

**43.** The Drainage Board shall, *One* clear Month before the Meeting at which any Rates are proposed to be made, give Notice of their Intention to strike such Rates by Advertisement *once* in each Week in some Newspaper or Newspapers circulating in their Drainage District; and such Advertisements shall specify the Names of the Proprietors proposed to be rated, and of the Lands in respect of which it is proposed that they shall be rated, the Amount of the Rate proposed to be made, the Time at which such Rate is to commence to be payable, and the Period for which such Rate is to continue payable; and such Advertisement shall also specify the Time and Place at which such Drainage Board is to meet for the Purpose of making such Rates; and any Proprietor feeling himself aggrieved by such proposed Rate may appear before the Board at such Time and Place, and object to such Rate, and may tender such Evidence in support of such Objection as he may deem expedient; and after full Investigation as to the Propriety of the Rates proposed to be made, and after hearing all such Objections as may be offered, the Board shall determine upon the several Rates to be levied.

Advertisement of Rates.

**44.** After such Determination of the Board, Notice shall be forthwith given by them, by inserting in some Newspaper circulating in their Drainage District *once* at least in each of Two successive Weeks, Advertisements containing a List of the Proprietors rated, the Amount of the several Rates, and the Names of the Lands in respect of which the same have been assessed.

Appeal to Quarter Sessions.

**45.** Any Person aggrieved by any such Rate may appeal therefrom to the Chairman of the County or of the Division or Riding of the

County in which the principal Office of such Drainage Board shall be situate, and such Chairman may confirm, annul, or modify the same accordingly; but no such Appeal shall be entertained unless it is made within *Four* Months next after the making such Rate, nor unless *Ten* Days Notice in Writing of such Appeal, previously to the Quarter Sessions at which same shall be heard, stating the Nature and Grounds thereof, is served on the Drainage Board, nor unless the Appellant, within *Four* Days after the Service of such Notice, enter into Recognizances, with Two sufficient Sureties, before a Justice of the Peace, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Power to refer Case to Arbitration.

**46.** If it appears to the Chairman, on the Application of either Party, that the Matter in question in such Appeal consists wholly or in part of Matters of mere Account, or of engineering or other scientific Questions, which cannot be satisfactorily tried by the Court, it shall be lawful for such Chairman to order that such Matters, either wholly or in part, be referred to the Arbitration of One or more Persons, to be appointed by the Parties, or, in case of Disagreement, by the Court; and the Award made on such Arbitration shall be enforceable by the same Process as the Order of the Court of Quarter Sessions.

19 & 20 Vict. c. 113. incorporated.

**47.** The Provisions of "The Common Law Procedure Amendment Act, Ireland, 1856," relating to compulsory References, shall be deemed to extend to Arbitrations directed by the Court of Quarter Sessions; and the Word "Court" in the said Act shall be deemed to include the Court of the Chairman of any County or Riding of a County.

Rate Books to be kept.

**48.** Proper Rate Books shall be kept by the Drainage Boards of all Rates which shall be struck, and such Books shall be open at all reasonable Times to the Inspection of any Person interested therein, without any Fee.

Power to vary Rates.

**49.** It shall be lawful for any Drainage Board by which any such Rates shall have been struck, from Time to Time and at all Times after Publication of like Notices as is herein-before provided in the Case of Rates to be made, to alter, vary, and reduce any Rates which shall have been theretofore made, either in the Amount of such Rates or in the Period for which the same are to continue payable: Provided that no such Alteration, Variation, or Reduction shall in any Manner affect any Person or Persons to whom, under the Powers herein-after contained, any Mortgage or Mortgages shall have been granted of the Rates so proposed to be altered, varied, or reduced.

**50.** After

Drainage Boards to determine Amount of increased Rent to be paid for Land improved.

**50.** After the Completion of any Drainage Works under this Act, in case any Land which shall be drained or improved by such Drainage Works shall be in the Occupation of a Person who shall not be a Proprietor thereof within the Meaning of the Provisions in that Behalf herein-before contained, or in case any Land so drained or improved shall be held under any Person who shall, within the Meaning of the aforesaid Provisions, be a Proprietor thereof by any other Person or Persons, under any Lease, Agreement, or Contract for a Lease, or shall be held under any Lease, Agreement, or Contract for a Lease granted or made by any Person or Persons having any immediate or derivative Title from or under such Proprietor, then and in such Case the Drainage Board shall determine the Amount of increased Rent or Rents which such Occupant and other Person or Persons having such immediate or derivative Title from or under such Proprietor as aforesaid shall pay in consequence of any Improvement of such Land, regard being had to the Duration, Extent, and Value of the Interest of such Occupant or Person or Persons in such Land, and the necessary Expenses to be incurred in the Cultivation thereof, and the peculiar Circumstances of each Case; and the Landlord or respective Landlords of such Occupant or other Person or Persons, and every intermediate Landlord, shall have the same Remedies for the Recovery of such increased Rent or Rents as he or they was or were entitled to for the Rent or Rents originally reserved; and the Decision of the Drainage Board shall be signified by Endorsement under their Common Seal on the Lease or Instrument, or Leases or Instruments of Demise, or by a separate Instrument, to be executed in like Manner: Provided always, that Notice shall be given by the Drainage Board to the Occupier or other Person whose Rent is proposed to be increased of the Intention to make such Increase, and by such Notice a Time and Place shall be specified at which it shall be lawful for such Occupier or other Person to appear before the Drainage Board, and make any fair and reasonable Objection which he may have to the Rent being increased by the Drainage Board in manner aforesaid; and every such Decision of the Drainage Board shall be subject to the same Right of Appeal as is herein-before provided in the Case of Appeals from Rates to be levied by Drainage Boards.

Service of Notices on Occupiers and Proprietors.

**51.** All Notices required to be served by Drainage Boards upon the Occupier or Proprietor of any Land shall either be served personally on him or be left at his last usual Place of Abode in Ireland, if any such can, after diligent Inquiry, be found, and in case he is absent from the United Kingdom, and his last usual Place of Abode cannot be found, after diligent Inquiry, it shall be affixed on some conspicuous Part of such Premises.

Notices to Corporations to be left at their principal Office.

**52.** If any Occupier or Proprietor on whom Notice is to be served is a Corporation Aggregate, or Joint Stock or other Company, or Body of Proprietors or Undertakers, such Notice shall be left at the principal Office of such Corporation, Company, or Body, or if no such Office can, after diligent Inquiry, be found, shall be served on some Agent, if any, of such Corporation, Company, or Body, but if no such Officer or Agent can be found it shall be left with the Occupier of the Lands, or if there be no such Occupier shall be affixed on some conspicuous Part of such Lands.

*Mortgage of Rates.*

Mortgage of Rates.

**53.** The Drainage Boards may, for the Purpose of defraying any Costs, Charges, and Expenses incurred or to be incurred by them, under the Authority of this Act, and of any Act constituting a Drainage District, borrow and take up at Interest on the Credit of the Rates authorized to be levied by them any Sums of Money necessary for defraying such Costs, Charges, and Expenses, and may, if they shall so think fit, include in such Loan as well the Principal Sum estimated to be required as all Interest which may be agreed to be paid thereon during the Interval between such Loan and the making of the Rates by which such Loan is to be repaid, such Interest to be payable in such Manner as may be agreed upon; and for the Purpose of securing the Repayment of any Sums of Money so borrowed, together with such Interest as aforesaid, the Drainage Boards may mortgage and assign over to the Persons by or on behalf of whom such Sums are advanced the Rates or any of them; but the Exercise of the above Power shall be subject to the following Regulations:

(1.) The borrowing such Money shall be sanctioned by an Order of the Lord Lieutenant in Council:

(2.) Any Money so borrowed may, by Agreement with the Mortgagee, be paid off by equal annual Instalments of Principal and Interest, and such borrowing may be for such Time, not exceeding *Thirty* Years, as the Drainage Board, with the Sanction of the Lord Lieutenant in Council, determine in each Case:

And in Cases where the Drainage Boards borrow any Money for the Purpose of defraying Expenses in respect of which they have determined a Part only of the District within their Jurisdiction to be liable, it shall be the Duty of the Drainage Board, as between the Ratepayers of the District, to repay the Money so borrowed, with Interest thereon, out of Rates to be levied on such Part of the District only.

**54.** The

Certain Clauses of 10 & 11 Vict. c. 16. incorporated.

**54.** The Clauses of the Commissioners Clauses Act, 1847, with respect to Mortgages to be created by the Drainage Board, shall form Part of and be incorporated with this Part of this Act, and any Mortgagee or Assignee may enforce Payment of his Principal and Interest by Appointment of a Receiver.

Power to Treasury, and also to Commissioners of Public Works, out of Monies in their Hands under the Land Improvement Acts, to make Advances to Drainage Boards.

**55.** *It shall be lawful for the Commissioners of Public Works in Ireland, out of any Monies which heretofore have been advanced to them by the Commissioners of Her Majesty's Treasury, under the Provisions of an Act passed in the Tenth Year of the Reign of Her present Majesty, entitled "An Act to facilitate the Improvement of "Landed Property in Ireland," and also for the Commissioners of Her Majesty's Treasury, out of the growing Produce of the Consolidated Fund of Great Britain and Ireland, upon Application to be made to them by any Drainage Board, to issue and advance from Time to Time to such Drainage Board such Sum or Sums of Money, to be applied by such Drainage Board in the Execution of any Works authorized by this Act, as to the said Commissioners of Public Works or to the said Commissioners of Her Majesty's Treasury may seem expedient; but no such Advance shall be made by the Commissioners of Public Works otherwise than with the Consent of the Commissioners of Her Majesty's Treasury, and subject to such Regulations in relation thereto and to the Repayment thereof as they shall in each such Case determine.*

Costs of legal Proceedings on Part of Drainage Boards.

**56.** All Costs, Charges, and Expenses incurred by Drainage Boards in instituting or defending any legal Proceedings instituted or defended by them in their Character of Drainage Boards may be defrayed out of the Rates leviable by them, and no Member of a Drainage Board shall be personally liable in respect of any such Costs, Charges, or Expenses.

*Tender of Amends.*

Tender of Amends.

**57.** If any Party has committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this Act or any Act incorporating a Drainage District, or by virtue of any Power or Authority hereby or thereby given, and if before Action brought in respect thereof such Party makes Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender has been made it shall be lawful for the Defendant, by Leave of the Court where such Action is pending, at any Time before Issue joined, to pay into Court such Sum of Money as he thinks fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

*Saving Clauses, and Miscellaneous.*

Saving Rights of Canal Owners and Wharfingers.

**58.** Nothing in this Act shall authorize any Drainage Board or Owner—

(1.) To interfere with any Sewers or other Works already or hereafter made and used for the Purpose of draining, preserving, irrigating, or improving Land under any Local or Private Act of Parliament, so as to injuriously affect the same;

(2.) To interfere with any River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or the Supply of Water to any River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, so as to injuriously affect the Navigation on such River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or the Use or Maintenance thereof, or to interfere with any Towing-path so as to interrupt the Traffic thereof, in Cases where any Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals are by virtue of any Act of Parliament entitled to navigate on or use such River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or in respect of the Navigation on or Use of which River, Canal, Dock, Harbour, Lock, Reservoir, or Basin any Corporation, Company, Undertakers, Commissioners, Conservators, and Trustees, or Individuals are entitled by virtue of any Act of Parliament to the Receipt of any Tolls or other Dues;

(3.) To interfere with the Works or Supply of Water of any Body or Persons, corporate or unincorporate, supplying Water to any Town or Place, so as to injuriously affect the same;

(4.) To execute any Works in, through, or under any Wharfs, Quays, Docks, Harbours, or Basins, belonging to the Proprietor or Proprietors of any Inland Navigation constituted by Act of Parliament, or for the Use of which they are entitled by virtue of any Act of Parliament to demand any Tolls or Dues,

Without the Consent of such Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals as are hereinbefore in that Behalf respectively mentioned, such Consent to be expressed in Writing, in the Case of Individuals under their Hands, in the Case of a Corporation under their Common Seal, and in the Case of a Company, Undertakers, Commissioners, Conservators, or Trustees, under the Hand of their Clerk or other duly authorized Officer or Agent.

**59.** Nothing

Commissioners not to divert Rivers so as to injure Harbours.

**59.** Nothing in this Act shall authorize any Drainage Board to divert any River in such Manner as to injure or to diminish the Supply of Water to any Harbour, without the Consent of the Conservators or other Authority having the Management of such Harbour.

Power for Canal Commissioners to alter Sewers.

**60.** Any Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals authorized by virtue of any Act of Parliament to navigate on or use any River, Canal, Dock, Harbour, or Basin, or to demand any Tolls or Dues in respect of the Navigation on such River or Canal, or the Use of such Dock, Harbour, or Basin, may, at their own Expense, and on substituting other Sewers, Drains, Culverts, and Pipes equally effectual, and certified as such by the Surveyor of the Drainage Board, take up, divert, or alter the Level of Sewers, Drains, Culverts, or Pipes constructed by the Drainage Board, and passing under or interfering with or with the Improvement or Alteration of such River, Canal, Dock, Harbour, or Basin, or the Towing-path of such River, Canal, Dock, Harbour, or Basin, and do all such Matters and Things as may be necessary for carrying into effect such Taking-up, Diversion, or Alteration.

Not to affect Contracts between Landlord and Tenant.

**61.** Nothing in this Act, save as herein otherwise provided, shall alter, interfere with, or affect any Lease, Contract, or Agreement that may have been entered into between Landlord and Tenant before the passing of this Act.

Penalty on Persons creating Obstructions or Nuisances.

**62.** No Person shall cause or permit any Obstruction in or otherwise injuriously affect any Watercourse in respect of which any Works shall have been commenced or executed by any Drainage Board, or shall, without the Consent of the Drainage Board, cause any filthy or unwholesome Water, or Washings of Manufactories or Mines, or other foul or poisonous Liquid, to flow into any such Watercourse; and any Person offending against this Enactment shall incur a Penalty not exceeding *Five Pounds*, and a further Penalty of *Forty Shillings* for every Day during which the Offence is continued, to be recovered in a summary Way, as herein-before provided; but this Section shall not apply to any Person having a legal Right to create such Obstruction or other Injury, or to cause such Water, Washing, or Liquid as aforesaid to flow into any existing Watercourse.

Drainage Boards may remove any insufficient Bridge, erecting a temporary Bridge.

**63.** If any existing Bridge, Culvert, or Archway for the Discharge of Water under any public Road shall, in the Opinion of the Drainage Board, be insufficient for the free Discharge of such Water, and shall by reason of such Insufficiency cause or tend to cause the flooding of any Land to be drained or improved by the Works of the Drainage Board,

Board, it shall be lawful for the Drainage Board to take down and remove such Bridge, Culvert, or Archway, the Drainage Board constructing a temporary Bridge, Culvert, or Archway in the Place of that so to be taken down and removed, and supporting and maintaining the same for the Space of Twelve Months, the Expense of the taking down and Removal of such Bridge, Culvert, or Archway, and constructing, supporting, and maintaining such temporary Bridge, Culvert, or Archway, to form Part of the Costs of the Works in the District within which any such Bridge, Culvert, or Archway may be situate: Provided always, that before proceeding to remove any such Bridge, Culvert, or Archway the Drainage Board shall cause *Thirty-one* Days Notice to be given to the County Surveyor of the County or of each County (if more than One) in which such Bridge, Culvert, or Archway shall be wholly or in part situate, stating the Intention of the Drainage Board to remove such Bridge, Culvert, or Archway, and communicating such precise Information, including a detailed Plan and Cross Section of the River or Stream over which a new Bridge, Culvert, or Archway is to be built, as may be requisite to show the Dimensions of the Waterway of such new Bridge, Culvert, or Archway, for the Purpose of enabling the County Surveyor to prepare a proper Plan, Specification, and Estimate for such new Bridge, Culvert, or Archway; and the Surveyor of any such County to whom such Notice shall be given shall at the next Assizes after the Receipt of such Notice lay the same, together with a proper Plan, Specification, and Estimate for such new Bridge, Culvert, or Archway, before the Grand Jury of such County.

Grand Jury of County to present for a new Bridge, &c. &c.

**64.** The Grand Jury of the County in which any such new Bridge, Culvert, or Archway shall be required to be built or constructed, is hereby authorized and required (without any Application to Presentment Sessions) to present the Amount necessary for the building of such Bridge, Culvert, or Archway, according to such Plan, Specification, and Estimate as aforesaid, or such other Plan, Specification, and Estimate as such Grand Jury may approve; and the Grand Jury of such County shall thereupon appoint a Committee of not less than *Three* or more than *Five* Persons, any *Three* of whom shall be a Quorum, to contract and agree with any Party or Person willing to undertake the building of such Bridge, Culvert, or Archway, or the said Grand Jury may authorize and direct that the said Bridge, Culvert, or Archway may be built and constructed out of the Money so presented, under the immediate Superintendence and Direction of the County Surveyor of such County.

Provision in case Bridge is on Boun-

**65.** When any such new Bridge, Culvert, or Archway shall be over any Stream or River forming a Boundary between Two Counties,

Counties, the same shall be built or constructed at the Expense of such Two Counties in equal Moieties, and the Grand Jury of each such County shall (without any Application to Presentment Sessions) present the Moiety of the Sum necessary for building or constructing such new Bridge, Culvert, or Archway, and appoint a Committee, as herein-before provided in the Case of One County; and the Committees so appointed shall meet and act as a joint Committee, for the Purpose of contracting as aforesaid for the building or constructing of such new Bridge, Culvert, or Archway, at the joint Expense of the said Counties as aforesaid; and in case both or either of such Grand Juries shall neglect to make such Presentment and appoint such Committees as aforesaid, or in case both or either of such Committees shall neglect to contract for the Construction of such Bridge, Culvert, or Archway, or if from any other Cause such Bridge, Culvert, or Archway shall not be built or constructed within Twelve Months after such Notice by the Drainage Board to the Surveyor of each County as herein-before provided, it shall be lawful for the Drainage Board to have such new Bridge, Culvert, or Archway built in such Manner as to them shall seem sufficient, and by a Certificate under their Common Seal to signify to the Secretary of the Grand Jury of each such County the Amount of the Moiety of the Expenses incurred by them in building or constructing such Bridge, Culvert, or Archway; and the Secretary of the Grand Jury of each such County shall lay such Certificate before the Grand Jury of such County at the Assizes to be held for such Counties respectively next after the Receipt of such Certificate, and thereupon the Grand Jury of each such County shall (without any Application to Presentment Sessions) present the Amount mentioned in such Certificate, to be levied off such County, or any Barony or Baronies of such County, immediately after such Assizes, and to be paid to the Drainage Board; and in case the Grand Jury of any such County shall neglect or refuse to present the Sum so mentioned in such Certificate, the Judge of Assize shall make an Order directing that the Treasurer for such County shall insert such Sum in his Warrant, and the same shall be levied off such County, or any Barony or Baronies of such County, as aforesaid, in the same Manner as if the same had been presented by such Grand Jury.

dary of Two Counties.

**66.** Where, in exercise of any Powers given by this Act, any Watercourse forming a Boundary Line between Two or more Counties, Baronies, Parishes, or other Areas defined by Law, is straightened, widened, or otherwise altered so as to affect its Character as a Boundary Line, the Board, Persons or Person, under whose Authority such Alteration is made, shall forthwith report the same to the Lord Lieutenant in Council, who, if satisfied that a new Boundary Line may

Provision in case of Alteration of local Boundaries.

may be adopted with Convenience, shall, by Notice, to be published in the Dublin Gazette and in such other Manner as he may direct, declare that the Watercourse as altered shall either wholly or partially be substituted for the former Boundary Line, and the Limits of the Areas of which the Watercourse, when unaltered, was the Boundary, shall be deemed to be varied accordingly; but if the Lord Lieutenant in Council is of opinion that a new Boundary cannot wholly or partially be adopted with Convenience, he shall require the Board, Persons or Person, under whose Authority the Alteration in the Watercourse was made, to set out a Boundary upon the Line of the Watercourse as it existed before its Alteration, or in a new Course in lieu thereof, in such Manner as he may direct and approve; and a Copy of the Dublin Gazette containing the Advertisement in respect of any Alteration of Boundary made in pursuance of this Section shall be admitted as Evidence in all Courts of Justice of the Fact of such Alteration having been made.

Power to Drainage Boards, in case Mill Power be improved, with Owner's Consent, to rate the Mill Owner towards the Expenses of the Works.

**67.** In case the Proprietor of any Mill or Factory shall consent that any Dam, Weir, or Watercourse, or other Work or Obstruction connected with such Mill or Factory, shall, for the Purpose of Drainage to be effected under this Act, be altered and rebuilt, or that such Mill or Factory shall, by any Works of the Drainage Board, obtain any increased Water Power, it shall be lawful for the Drainage Board to fix and determine the Amount of Rate or Contribution which shall be paid by the Proprietor of such Mill or Factory for the Improvement which shall be so effected, towards the Repayment of the Costs and Expenses of the Works to be executed within the District within which such Mill or Factory is situate, and the Rate which shall be paid in future for such increased Water Power; and the Drainage Board shall have such and the like Powers and Authorities to recover the Amount of Rate which shall be so fixed and determined as are given to them by this Act for the Recovery of any other Rates or Charges to be imposed by them under the Authority of this Act.

Power to rate Mills and Factories for increased Supply of Water from Works for Drainage, with Assent of Owners of Mills and Factories possessing more than Half the

**68.** In all Cases of Drainage under this Act, in which it shall be found by the Drainage Board practicable to improve the working Water Power of any Mills or Factories situate within their District, and where the Proprietors of such Mills or Factories possessing more than *One Half* of the Value of the working Water Power of all such Mills or Factories which may derive Benefit from such Works shall signify their Assent in Writing to the Execution of the proposed Works, it shall and may be lawful for the Drainage Board to execute all such Works as may be necessary for the Improvement of such Water Power; and that all and every the Powers, Authorities, and Provisions in this Act given and contained for the Execution of any Works

Works hereunder shall be held and deemed to be applicable to the Execution of the Works which the Drainage Board may deem necessary for the Improvement of such Water Power, and for the Purpose of Contributions towards the Repayment of the Costs and Expenses of the Works to be executed in the District within which any such Mill or Factory may be situate; and it shall and may be lawful for the Drainage Board to assess and rate all the Mills and Factories which in the Opinion of the Drainage Board are or shall be benefited by any of the Works executed within such District, and to fix and determine the Amount of such Rate or Contribution which shall be paid by the Proprietors of each such Mill or Factory for the Improvement which shall be so affected, and also to fix and determine the Proportion in which each such Mill or Factory shall in future be rated for the Maintenance of the Works within any such District, regard being had in fixing such Assessment and Rate and Proportion of Rate respectively aforesaid to the Degree of Benefit conferred upon each such Mill or Factory.

working Water Power.

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## PART II.

*Power of Private Owners to procure Outfalls.*

**69.** Any Person or Persons interested in Land, who is or are desirous to drain the same, and in order thereto deems it necessary that new Drains should be opened through Lands belonging to another Owner or Owners, or that existing Drains in or immediately adjoining Lands belonging to another Owner or Owners should be cleansed, widened, straightened, deepened, or otherwise improved, may apply to such Owner or Owners, who is or are herein-after referred to as the adjoining Owner or Owners, for Leave to make such Drains or Improvements in Drains through, on, or adjoining the Lands of such Owner or Owners.

Application for Outfall to adjoining Owner.

**70.** Any such Application as aforesaid shall be by Notice in Writing under the Hand of the Applicant or Applicants, and shall be served on the Owner or Owners, and also on the Occupier or Occupiers, if the Owner be not the Occupier, in manner in which Notices are required to be served on Proprietors and Occupiers under the First Part of this Act. The Notice shall state the Nature of such Drains or Improvements in Drains, be accompanied by a Map, on which the Length, Width, and Depth of the proposed Drains or Improvements in Drains shall be delineated, and shall further state the Compensation, if any, which the Applicant or Applicants proposes or propose to pay.

Mode of making Application.

**71.** The adjoining Owner or Owners may, by Deed under his or their Hand and Seal, assent to such Application, upon such Terms and

Assent of adjoining Owner.

and on Payment of such Compensation as he or they may require, and any Assent so given shall be binding on all Parties having any Estate or Interest in the Land, subject to the following Provisions:

1stly. That any Arrangement entered into by any adjoining Owner under any Disability or Incapacity, or not having Power to assent to such Application except under the Provisions of this Act, shall not be valid unless the same is approved by *Two* Surveyors, one of whom is to be nominated by the Applicant or Applicants, and the other by the adjoining Owner; and each of such Surveyors, if they approve of the Arrangement, shall annex to the Document containing the same a Declaration to that Effect, subscribed by them:

2dly. That any Compensation to be paid by the Applicant or Applicants to the adjoining Owner in Cases where such Owner is under any Disability or Incapacity, or has not Power to assent to such Application except under the Provisions of this Act, shall be applied in manner in which the Compensation coming to Parties having limited Interests, or prevented from treating, and not making Title, is applicable, under "The Lands Clauses Consolidation Act, 1845:"

3dly. That any Occupier or Person other than the Owner interested in the Lands shall be entitled to Compensation for any Injury he may sustain by the making of the proposed Drains or Improvements in Drains, so that the Claim therefor be made within Twelve Months after Completion of such Drains or Improvements in Drains, the Amount of such Compensation to be determined, in case of Dispute, by Two or more Justices in Petty Sessions assembled, or if such Occupiers or other Person do not consent, by Arbitration.

Record of Assent of adjoining Owner.

**72.** The Applicant or Applicants shall forward to the Clerk of the Peace of the County, Riding or Division of the County, wherein the Land is situate the Deed containing the Assent of the adjoining Owner to the proposed Drains or Improvements in Drains, who shall keep the same in his Office as a Record of the Proceedings between the Parties.

Dissent of adjoining Owner.

**73.** The adjoining Owner shall be deemed to have dissented from the Application made to him if he fail to express his Assent thereto within *One Month* after the Service of the Notice of Application on him; and in the event of such Dissent there shall be decided, by Two or more Justices in Petty Sessions assembled, unless the adjoining Owner require the same within such Period of *One Month* to be decided by Arbitration, the Questions following; that is to say,

(1.) Whether

(1.) Whether the proposed Drains or Improvements in Drains will cause any Injury to the adjoining Owner, or to the Occupier or other Person interested in the Lands:

(2.) Whether any Injury that may be caused is or is not of a Nature to admit of being fully compensated for by Money.

The Result of any such Decision shall be as follows; that is to say, Result of Decision.

(1.) If the Decision is that no Injury will be caused to the adjoining Owner, to the Occupier, or other Parties interested in the Lands, the Applicant or Applicants may proceed forthwith to make the proposed Drains or Improvements in Drains:

(2.) If the Decision is that Injury will be caused to the adjoining Owner, Occupier, or other Parties interested in the Lands, but that such Injury is of a Nature to admit of being fully compensated by Money, the Justices or Arbitrators shall proceed to assess such Compensation, and to apportion the same amongst the Parties in their Judgment entitled thereto; and in assessing the Amount of such Compensation the Justices or Arbitrators shall take into consideration the Benefit, if any, to be derived from such Drains or Improvements by such adjoining Owner, Occupier, or other Persons, and to set off the same against the Amount to be assessed by them for such Compensation; and on Payment of the Sum so assessed the Applicant or Applicants may proceed to make the proposed Drains or Improvements in Drains:

(3.) If the Decision is that Injury will be caused to the adjoining Owner, Occupier, or other Parties interested in the Lands, and that such Injury is not of a Nature to admit of being fully compensated by Money, the Applicant or Applicants shall not be entitled to make the proposed Drains or Improvements in Drains.

**74.** Where the Compensation assessed by the Justices or Arbitrators under the last preceding Section is payable to any Owner or other Person who is under any Disability or Incapacity, or is not entitled to receive the same for his own Benefit, such Compensation shall be applied in the Manner in which the Compensation is applicable under the "Lands Clauses Consolidation Act, 1845." Application of Compensation in case of Owners under Disability.

**75.** The Justices or Arbitrators, as the Case may be, in the event of their approving of a Scheme of Drainage as proposed by the Applicant or Applicants, or as modified by themselves, shall cause a Map thereof to be prepared, and shall certify under their Hands the Correctness of such Map; and it shall be the Duty of the Applicant or Applicants to forward the same to the Clerk of the Peace of the County, If Drainage Scheme approved of, Map shall be prepared.

County, Riding or Division of the County, wherein the Land is situate, who shall keep the same in his Office as a Record of the Proceedings between the Parties.

Power of Applicant to clear Drains.

**76.** After Drains have been opened or Improvements in Drains made, in pursuance of Part Two of this Act, it shall be lawful for the Applicant or Applicants, his or their Heirs and Assigns, for ever thereafter, from Time to Time, as it becomes necessary, to enter upon the Lands through which such Drains have been opened or Improvements made, for the Purpose of clearing out, scouring, and otherwise maintaining the same in a due State of Efficiency; and if such Drains or Improvements in Drains are not kept so cleared out, scoured, and maintained in a due State of Efficiency, the Owner or Occupier for the Time being of the Lands through or on which such Drains or Improvements in Drains are made may clear out, scour, and otherwise maintain the same in a due State of Efficiency, and recover the Expenses incurred in such clearing out, scouring, or Maintenance, in a summary Manner, as herein-before provided, from the Applicant or Applicants, his or their Heirs or Assigns.

Power of adjoining Owner to divert Drains.

**77.** The Owner for the Time being of the Land through or in which any Drain may be opened or Improvements in Drains made, in pursuance of Part Two of this Act, may fill up, divert, or otherwise deal with such Drains or Improvements in Drains, on condition of first making and laying down in lieu thereof Drains equally efficient; and any Dispute as to the Efficiency of Drains so laid down shall be decided by Two or more Justices assembled in Petty Sessions.

Penalty for obstructing or injuring Drains.

**78.** Any Person who wilfully obstructs any Person making any Drains or Improvements in Drains, in pursuance of Part Two of this Act, and any Person who wilfully dams up, obstructs, or in any way injures any Drains or Improvements in Drains so opened or made, shall for each Offence incur a Penalty not exceeding *Ten Pounds*, to be recovered in a summary Manner, as herein-before provided.

Costs of Application.

**79.** All Costs, Charges, and Expenses reasonably incurred by the adjoining Owner in respect of any Application made in pursuance of this Part of this Act shall be defrayed by the Applicant or Applicants.

Provision in case of Change of natural Outfall.

**80.** Where any Person is desirous, in pursuance of this Part of this Act, of constructing any Drain by means whereof any Brook, River, or other natural Watercourse will be diverted from its ordinary Channel into any other Brook, River, or natural Watercourse, he shall cause a Copy of the Notice hereby required to be served on the adjoining

adjoining Owner to be published by Advertisement once at least in each of *Three* successive Weeks in some local Newspaper circulating in the District in which the Drain proposed to be constructed is situate, and to be served in manner in which Notices are required to be served under the First Part of this Act (where no special Mode of Service is prescribed) on all Owners of Land abutting upon the Brook, River, or other natural Watercourse into which the Diversion is made, and situate within Four Miles of the Point of Junction, and shall deposit a Copy of the Map hereby required to accompany the Notice served on the adjoining Owner with the Clerk of the Peace of the County, Riding, or Division of a County wherein the proposed Drain is situate; and it shall be lawful for any Person, being the Owner of Land capable of being injured by the proposed Drain, within *Eight* Weeks after the First Notice of the proposed Drain appears in the Newspaper, to serve Notice that he apprehends Injury from such Drain on the Person proposing to make the same, and thereupon such Owner shall be deemed to have dissented, and shall be entitled to the same Rights and Privileges under this Part of this Act as if he were the adjoining Owner.

Appointment of Arbitrators.

**81.** Where any Question is by this Part of this Act to be decided by Justices or Arbitration, at the Option of an adjoining Owner, Occupier, or other Person interested, *Two* Arbitrators shall be nominated, one by the Applicant or Applicants, and the other by such adjoining Owner, Occupier, or other Person interested, as the Case may be; and in default of such adjoining Owner, Occupier, or other Person interested in nominating an Arbitrator, it shall be lawful for any Two or more Justices in Petty Sessions, after Notice to such adjoining Owner, Occupier, or other Person, to nominate such Arbitrator; and the Arbitrators shall decide the several Questions mentioned in this Part of this Act, and shall have Power, in case of Disagreement, to call in an Umpire; and such Arbitrators and Umpire, as the Case may be, shall make their Award on the said several Matters, and such Award shall be transmitted and dealt with in all respects as is herein-before provided in the Case of the Decision of the Justices upon the several Questions aforesaid.

Powers of Part II. of Act cumulative.

**82.** All Powers given by Part II. of this Act shall be deemed to be in addition to and not in derogation of any other Powers now existing by Common Law, or under any Act or Acts of Parliament heretofore passed, and now remaining unrepealed; and every Person may exercise such other Powers in the same Manner as if this Act had not passed, anything herein contained notwithstanding.

## SCHEDULE referred to in the foregoing Act.

### PART I.

*Rules as to Election of Members of Drainage Boards.*

The Chairman of the Board of the previous Year, or some Person appointed by him, shall be the Returning Officer.

If at any Time, from any Default of such Chairman as aforesaid, or from any Reason, there is no Returning Officer, or such Returning Officer is unwilling or unable to act, the Members of the Board of the preceding Year may appoint a Returning Officer in his Stead.

The Election of new Members shall take place on the first Thursday, or on such other Day as may be appointed by the Board, in September in every Year excepting the Year in which the Order in Council is made.

On every Occasion of the Election of new Members of the Board the Returning Officer shall convene a Meeting of the Electors for the Purpose of such Election, and shall give Notice of such Meeting, and of the Time and Place at which it is to be held—

By Advertisement in some One or more of the Newspapers circulating in the District;

By causing a Copy of such Notice to be affixed to the outer Door of the principal Office of the Board.

The Returning Officer shall preside and regulate the Proceedings at such Meeting.

At any such Meeting as aforesaid any qualified Person or Persons may, if he or they consent thereto, be nominated by any Elector, and seconded by any other Elector, as a Member or Members of the Board, in the Place of any retiring Member or Members.

If more Candidates are proposed than the Number to be elected, the Returning Officer shall, if required by the Electors at such Meeting, forthwith, in such Manner as shall appear to him most convenient, ascertain the Number of Votes for the Candidates who shall have been so proposed, and the Election of such Candidates shall be determined by the Majority of such Votes; but if no more Candidates are proposed than the Number to be elected, or if the Electors do not require the Votes to be taken, then a Declaration by the Returning Officer that the Candidates are elected Members of the Board shall be Evidence of the Fact.

For

For the Purpose of ascertaining the Votes of the Electors, the Returning Officer may, if he thinks fit, or if it shall be necessary or expedient, hold an adjourned Meeting of the Electors, at such Time and Place as he may fix at such First Meeting, and the Time and Place of such adjourned Meeting shall be publicly announced by him at the First Meeting, to be held as before provided.

Votes may be given either personally or by Proxy. A Proxy shall be appointed under the Hand of the Appointer, but he shall not be entitled to vote unless the Instrument appointing him was deposited at the Office of the Board Seven Days before the Day of Election at which such Proxy proposes to vote; but no Person shall be appointed a Proxy unless he is a qualified Elector.

The Returning Officer shall cause to be entered in the Polling Books to be kept for that Purpose the Name and Address of every Voter, and the Manner in which he votes.

After the Election the Returning Officer shall as soon as possible publish the Names of the Candidates elected as herein mentioned,—

(1.) By Advertisement in some One or more Newspaper or Newspapers circulating in the District:

(2.) By affixing a List of such Candidates to the outer Door of the principal Office of the Board.

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## PART II.

### *Rules as to Proceedings of Drainage Boards.*

1. A Drainage Board shall meet together for the Despatch of Business, and shall from Time to Time make such Regulations with respect to the summoning, Notice, Place, Management, and Adjournment of such Meetings, and generally with respect to the Transaction and Management of Business, as they think fit, subject to the following Condition:—That

(*a.*) No Business shall be transacted at any Meeting unless at least Three Members are present at the Commencement and Close of such Business:

(*b.*) No Order involving an Expenditure of more than One hundred Pounds shall be made by the Board unless at the least One Month's previous Notice, specifying the Work to be undertaken or the other Matter to which such Order relates, and naming a Day on which a Meeting of the Board is to be held for considering the Matter to be ordered, has been sent by Circular to each Member of the Board:

(*c.*) All Questions shall be decided by a Majority of Votes of the Members present:

(*d.*) The Names of the Members present, as well as of those voting upon each Question, shall be recorded.

2. The Board shall, at their First Meeting, and afterwards from Time to Time at their first Meeting after each annual Election, appoint One of their Number to be Chairman for the Year following such Choice.

3. If any casual Vacancy occurs in the Office of Chairman, the Board shall, as soon as they conveniently can after the Occurrence of such Vacancy, choose some Member of their Number to fill such Vacancy; and every such Chairman so elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be so elected would have been entitled to continue if such Vacancy had not happened.

4. If at any Meeting the Chairman is not present at the Time appointed for holding the same, the Members present shall choose some One of their Number to be Chairman of such Meeting:

5. In case of an Equality of Votes at any Meeting, the Chairman for the Time being of such Meeting shall have a Second or Casting Vote.

6. The Board may delegate any of their Powers to Committees, consisting of such Member or Members of their Body as they think fit. Any Committee so formed shall, in the Exercise of the Powers delegated, conform to any Regulations that may be imposed on them by the Board.

7. A Committee may elect a Chairman of their Meetings. If no such Chairman is elected, or if he is not present at the Time appointed for holding the same, the Members present shall choose One of their Number to be Chairman of such Meeting.

8. A Committee may meet and adjourn as they think proper. Questions at any Meeting shall be determined by a Majority of Votes of the Members present; and in case of an equal Division of Votes, the Chairman shall have a Second or Casting Vote.

9. The Board shall cause Minutes to be made, in Books provided for that Purpose,—

(1.) Of all the Appointments of Officers made by the Board;

(2.) Of the Names of the Members present at each Meeting of the Board and Committees of the Board;

(3.) Of all Orders made by the Board and Committees of the Board; and,

(4.) Of all Resolutions and Proceedings of Meetings of the Board and of Committees of the Board.

And any such Minutes as aforesaid, if signed by any Person purporting to be the Chairman of any Meeting of the Board or Committee of the Board, shall be receivable in Evidence without any further Proof.

# Drainage (Ireland).

A

# BILL

For the Amendment of the Law relating to the Drainage of Land in Ireland.

(*Prepared and brought in by Colonel Dickson, Colonel French, and Mr. Pope Hennessy.*)

*Ordered, by* The House of Commons, *to be Printed,* 9 *April* 1862.

[Bill 80.]

*Under 5 oz.*

2 *June* 1862. 25 Vict.

A

# BILL

[AS AMENDED BY THE SELECT COMMITTEE]

FOR

## The Amendment of the Law relating to the Drainage of Land in Ireland.

Preamble.

WHEREAS it is expedient that greater Facilities should be afforded for the Drainage of Lands in Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

*Preliminary.*

Short Title.

1. This Act may be cited for all Purposes as "The Land Drainage Act (Ireland), 1862."

Act to apply to Ireland only.

2. This Act shall extend to Ireland only.

Definition of Terms.

3. "Watercourse" shall include all Rivers, Streams, Drains, Sewers, and Passages through which Water flows:

"Person" shall include any Body of Persons, corporate or unincorporate, unless there is something in the Context inconsistent therewith:

"Commissioners of Public Works" shall mean Her Majesty's Commissioners of Public Works in Ireland for the Time being:

"Owner," as used throughout this Act, shall have the same Meaning as it has in "The Lands Clauses Consolidation Act, 1845:"

"Land" shall extend to all Arable, Pasture, or otherwise profitable and to all waste uncultivated Land, and shall also extend to Messuages, Tenements, Mills, Weirs, Easements, and other Hereditaments, corporeal or incorporeal, and any Estate or Interest therein, and any undivided Part thereof.

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## PART I.

### *Elective Drainage Districts.*

Constitution of Elective Drainage Districts.

**4.** Any Persons or Body of Persons, corporate or unincorporate, being Proprietors of not less than One Tenth Part in Acreage of any Bog, Moor, or other Area of Land that requires a combined System of Drainage, Warping, or Irrigation, may, with the Consent of the Commissioners of Public Works, as herein-after mentioned, constitute such Bog, Moor, or other Area of Land a separate Drainage District.

Mode of constituting Elective Drainage District.

**5.** The following Proceedings shall be taken for the Purpose of obtaining the Sanction of the Commissioners of Public Works:

(1.) A Petition shall be presented to them, stating the proposed Boundaries of the District, by Reference to a Map, or in such other Manner as they shall think expedient, and also stating the Exigencies which render the Formation of such Drainage District necessary: It shall be signed by such Proprietors as aforesaid, and shall be accompanied by proper Schedules, Maps, Plans, and Sections, showing the Drainage Works proposed to be executed within such District, including therein all Works necessary for any Outfall, and showing the Land to be drained or improved by such Drainage, and showing in One or more of such Schedules the reputed Proprietors, Lessees, and Occupiers thereof, and the Lands or other Property required to be taken for or likely to be injured by the proposed Works or the making of any Outfall, and the reputed Proprietors, Lessees, and Occupiers thereof, and showing, so far as may be possible, the Line, Course, and Situation of the Streams, Watercourses, Drains, Rivers, and Lakes intended to be cleared, scoured, or embanked, and the requisite Variations, Divisions, Abridgments, or Enlargements of the same, and the Direction and Extent of any new Drains, Watercourses, or Works necessary to be made,

made, and the Land in and through which the same are to be made; and such Petition shall also be accompanied by an Estimate of the Expense of the proposed Works, including in such Estimate the probable Amount of Money payable as Compensation in respect of any Injury likely to be occasioned by such Works, or for the Purchase of any Land, Houses, Fisheries, Weirs, Mills, or other Property required to be taken or purchased for the Purpose of such Works, and other miscellaneous Expenses likely to be incurred; and such Schedules shall also set forth the then actual Value of the Land to be drained or improved by Drainage by the proposed Works, so far as the Petitioner shall be able to ascertain the same, and the probable Increase in such Value by the proposed Works; and such actual Value and estimated Increase shall be stated in the said Schedules, and also the Proportions in which such Lands shall contribute towards the Payment of the Costs of the proposed Works, specifying such Proportions in the Ratio of the estimated Increase in the Value of such Lands; and the said Commissioners shall cause to be made Copies of the said Schedules, Maps, Plans, Sections, and Estimate, and shall cause such Copies to be deposited in such convenient Place or Places as the said Commissioners shall think proper, within or in the immediate Vicinity of the District in which such Land or River, or Part of a River, shall be situate, there to remain open for public Inspection at all reasonable Times for Three successive Weeks; and all Persons shall be at liberty to inspect and make Copies of or Extracts from the said Schedules, Maps, Plans, Sections, and Estimate, and Copies thereof or Extracts therefrom shall be made for any Person who shall require the same, on Payment of the Costs of making such Copies or Extracts:

And the said Commissioners shall cause a Notice, stating the Places in which Copies of the said Schedules, Maps, Plans, Sections, and Estimate have been deposited as aforesaid, to be published in some Newspaper usually circulated in the District in which the Land or River, or Part of a River, proposed to be drained or improved, shall be situated, or in the immediate Vicinity thereof, and also to be posted in the usual Places for posting Grand Jury Notices in or near such District; and in all Cases where it shall be proposed to take or remove any Mill or Factory, or to lower, raise, or modify any Weir, Dam, or other Work or Obstruction connected with any Mill or Factory, a Copy of such Notice shall be served on the Owner, Lessee, or Occupier, or Person in

charge of such Mill or Factory, or posted on the Door or Wall thereof; and by such Notice all Parties interested shall be required, on or before a Day to be therein named, not sooner than Three Weeks from such Publication and Posting or Service as aforesaid of such Notice, to transmit to the Secretary of the said Commissioners their Objections, if any, to the said Schedules, Maps, Plans, Sections, and Estimate, and all other Objections which such Parties shall think fit to make with respect to anything proposed to be done under the Provisions of this Act; and the Commissioners shall by the same Notice specify their Intention of sending an Inspector to the District, before whom all Persons interested in the proposed Works, or having any Objection thereto, shall be required to appear at a Time and Place to be fixed by such Notice:

(2.) After the Expiration of the Period mentioned in such Notice for sending in Objections, the said Commissioners shall send an Officer, as an Inspector, to the District, for the Purpose of making Inquiries as to the Propriety of constituting the proposed District, and as to the Assent of the Proprietors thereto: And they shall deliver to such Inspector the Schedules, Maps, Plans, and Sections which shall have been deposited with them under the Provisions herein-before contained:

(3.) The Inspector shall proceed to the District, and shall make all necessary Inquiries with respect to the Propriety and Necessity of constituting such District, and also with respect to the Area of Land to be comprised therein:

And such Inspector shall, at the Time and Place named in such Notice as aforesaid, attend, and shall have Power to adjourn from Time to Time, or hold such new Meeting as he may find necessary, and shall inquire into the Correctness of the Schedules containing the Names of such Proprietors and Occupiers as aforesaid, and shall hear all such Objections as shall have been or shall then be made by any Person or Persons interested in the said Lands or River, or any Persons on his or their Behalf, as to any Omission or Misdescription in such Schedules, or any Name improperly inserted therein, and shall hear all such other pertinent Objections as shall have been or shall be then and there made by such Person or Persons to the Schedules, Maps, Plans, Sections, and Estimate which shall have been made under the Provisions herein-before contained; and the said Inspector shall also hear and inquire, on Oath or otherwise, into all such Objections by any of the Persons aforesaid to the

the said proposed Works, as shall have been or shall then and there be made, and also all Objections to the stated Value of the Land, or to the stated probable Increase in such Value, as the same shall have been respectively set forth in the said Schedules, and also into all such Objections as shall have been made, or shall then and there be made, by or on behalf of the Owner, Lessee, or Occupier, or other Person interested in any Mill or Factory likely to be affected by anything proposed to be done in such District under any of the Provisions of this Act, and after after having considered all such Objections as aforesaid he shall cause such Alterations (if any) as he may deem expedient to be made in the said Schedules, Maps, Plans, Sections, and Estimate, and shall sign the same; and the said Inspector shall receive and hear all such Evidence as may be offered to him in relation to the several Matters aforesaid, and shall take or receive the Assents in Writing of the Proprietors of the Lands comprised in such Schedules to the Execution of the proposed Works, and the Incorporation of such District; and such Schedules, Maps, Plans, Sections, and Estimate, so signed by the said Inspector, and the Assents which shall be given, shall be preserved by the said Commissioners in their Office in Dublin; and a Copy thereof shall be deposited with the Clerk of the Peace of each County wherein such Works are proposed to be executed, and shall be open to public Inspection at all reasonable Times, on Payment of a Fee of One Shilling:

(4.) The Inspector shall report the Result of his Inquiries to the Commissioners, and they may, if satisfied with the Propriety of constituting the District, and that the Proprietors of Two Third Parts in Value of such Bog, Moor, or other Area are in favour thereof, make a Provisional Order declaring the Area in such Order mentioned to be a Drainage District; provided that no such Order shall be made authorizing a Drainage Board to remove or injuriously interfere with any Mill Race, Mill Dam, Weir, or other like Obstruction, whereby the Level of Water is raised for milling or other Purpose of Profit, unless, upon the Report of their Inspector, they shall be satisfied that any Injury that may be caused thereby is of a Nature to admit of being fully compensated for by Money:

(5.) Notice of the Provisional Order shall be published in the Dublin Gazette and in some other Newspaper circulating in the District to which it relates, and Copies thereof shall be

served in such Manner and upon such Persons as the Commissioners may require:

(6.) No Petition for constituting an Elective Drainage District under this Act shall be entertained until the Petitioners have given such Security for Costs, by Deposit of a Sum of Money or otherwise, as the said Commissioners shall require; and in the event of a Drainage District not being constituted in pursuance of a Petition, the Petitioners shall pay all Costs, Charges, and Expenses, including the Expense incurred by reason of the presenting of the Petition and of the Appointment of such Inspector; but in the event of the Drainage District being constituted, such Costs, Charges, and Expenses shall be deemed to be Expenses incidental to the Execution of the Works, and shall be defrayed accordingly; and any Sum of Money which shall have been deposited as a Security for Costs shall be returned by the Commissioners to the Person or Persons by whom the same shall have been deposited, deducting thereout all Expenses which shall have been incurred by the said Commissioners in making the necessary Inspection and Inquiries.

Evidence of Constitution of District.

**6.** The making of such Order shall be conclusive Evidence that all the Requirements of this Act in respect of Proceedings required to be taken previously to the making of such Order have been complied with.

Definition of Proprietors.

**7.** The following Persons shall be deemed to be Proprietors for the Purposes of this Act; that is to say,

(1.) Any Person seised or entitled in possession, for his own Benefit, at Law or in Equity, as Tenant in Fee Simple or in Fee Tail, General or Special, or as Tenant by Curtesy, and also any Person who shall be entitled under any Will or Settlement, Act of Parliament, or any other Deed or Instrument (except a Grant or Lease reserving Rent, or an Agreement in Writing for such Grant or Lease), for his own Life or the Life of any other Person, or for Years determinable on such Life or Lives; and also any Person who shall be entitled under any Lease granted by a Bishop or any Collegiate or Ecclesiastical Body, or under any Lease granted by any Person having immediate or derivative Title from or under any Bishop, or any Collegiate or Ecclesiastical Body, which Lease shall contain a toties quoties Covenant of Renewal, and also any Person who shall be entitled for any like Estate in any Lands held under any Grant, Lease, or any other Deed

Deed or Assurance for an Estate in Fee or for a Term of Years absolute, whereof Forty Years or more shall be unexpired, or for an Estate or Interest for any Life or Lives, renewable for ever, or for any Term or Terms of Years, renewable for ever:

(2.) Any Body Corporate, any Corporation Sole, any Trustees for Charities, and any Commissioners or Trustees for Ecclesiastical, Collegiate, or other public Purposes, entitled, at Law or in Equity, in the Case of Freehold Estates or Copyhold Estates, in Fee, and in the Case of Leasehold Estates, to a Lease for an unexpired Term of not less than Sixty Years.

Trustees to be deemed Proprietors in certain Cases.

**8.** Where any Proprietor, as herein-before defined, is a Minor, or of unsound Mind, or a married Woman, the Guardian, Committee, or Husband, as the Case may be, of such Proprietor, shall be the Proprietor within the Meaning of this Act; subject to this Proviso, that a married Woman entitled for her separate Use, and not restrained from Anticipation, shall, for the Purposes of this Act, be treated as if she were not married.

Provision as to Proprietorship by Corporations and Companies.

**9.** Where a Corporation Aggregate, a Joint Stock or other Company, or any Body of Proprietors or Undertakers, is Proprietor of any Land, such Corporation, Company, Body of Proprietors or Undertakers respectively, shall be deemed to be One Proprietor for the Purpose of giving an Assent or Dissent under this Act, and may express their Assent or Dissent in Writing under their Common Seal in the Case of a Corporation, and in any other Case under the Hands of Three Directors or other Persons in the Direction or Management of the Company or Concern; but no Member of such Corporation, nor Proprietor or Person interested in such Company or Concern, shall be entitled to dissent individually as a Proprietor in respect of such Land.

Provision as to Joint Proprietors.

**10.** Where several Persons are Proprietors of Land as Joint Tenants, Coparceners, or Tenants in Common in undivided Moieties, they shall in respect of such Land be accounted as One Proprietor, but the Concurrence of the Proprietors of Two Third Parts of such Land shall be deemed to be the Concurrence of the whole.

Provision in case of no Proprietor.

**11.** When any Portion of Land comprised within the Boundaries referred to in any such Petition as is herein-before mentioned appears to have no Proprietor, within the Meaning of this Act, or the Proprietor cannot be found, the Land so circumstanced shall be altogether excluded in any Computation that may be made of the Proportion

borne by the dissenting Proprietors of any Area of Land, as hereinbefore provided, to the aggregate Number of the Proprietors of such Land.

CLAUSE A. Assents may be given by Persons authorized.

**12.** The Assents of Proprietors required to be given in Writing for any of the Purposes of this Act may be given by the known Agent or Attorney of any such Proprietor or Person duly authorized for all or any of such Purposes.

Powers of Inspector.

**13.** Any Inspector sent by the Commissioners of Public Works, in pursuance of this Act, may, by himself and his Servants, enter upon any Lands, in order to obtain Information upon any of the Matters aforesaid, and may do all such Things as to him shall seem expedient and necessary for the Purposes of his Inspection and Report, making reasonable Compensation for any Injury which may be done by him or his Servants, and he may also, by Summons under his Hand, require to appear before him any Persons whomsoever, and examine them upon Oath or otherwise touching any Matter relating to the Purposes of the Inquiry, and he may by any such Summons require any Officer of or acting under any Corporation or Guardians of the Poor, and any Commissioner, Trustee, Officer, or Person acting under any Local Act of Parliament in force within the District to which any such Inquiry may relate, to produce before him any Surveys, Plans, Sections, Rate Books, or other like Documents which may by reason of their Office be in their Custody or Control, touching any Matter relating to the Purposes of such Inquiry; and such Inspector may examine, inspect, or take Copies of any such Books, Surveys, Plans, Sections, and Documents, or any of them, or Part thereof; and whosoever refuses to permit any such Inspector or his Servants to do any of the Matters aforesaid, or wilfully disturbs or interferes with him or them in the course of their Inspection, or wilfully disobeys any such Summons, or prevents any such Inspector from examining, inspecting, or taking Copies as aforesaid, or refuses to answer any Question put to him by such Inspector for the Purposes of the said Inquiry, shall be liable to a Penalty not exceeding Five Pounds for every such Offence, to be recovered in a summary Manner before Two Justices of the Peace sitting at Petty Sessions in any District within the Jurisdiction of which any of the Lands in the proposed Drainage District are situate, but no Person shall be required to attend before the Inspector in obedience to any Summons unless the reasonable Charges of his Attendance have been paid or tendered to him.

Constitution of Drainage Boards.

**14.** After the Incorporation of a District the Superintendence of Matters relating to Drainage within such District shall be vested in a Board,

a Board, herein-after called a Drainage Board, and such Board shall be a Body Corporate, with perpetual Succession and a Common Seal, having a Capacity to hold Lands for all the Purposes of their Constitution.

Regulations as to Drainage Boards.

**15.** Subject to any Provisions to the contrary that may be made by the Order constituting the District, the following Regulations shall be made with respect to Drainage Boards:

(1.) The Members of the First Drainage Board shall be named in the Order constituting the Drainage District, and such Order shall fix the Number of which the Board is to consist, the Mode of summoning the First Meeting of the Board, the Qualification of subsequent Members of the Board, and the Time at which the First Members of the Board are to vacate their Offices, such Time not being later than the End of the Month of September in the Year following that in which such Order is made:

(2.) The Members of every Board succeeding the First Board shall vacate their Officers on the First Thursday in September in each succeeding Year, or on such other Day in September as may be prescribed by the Board:

(3.) The Offices of vacating Members shall be filled up by an equal Number of qualified Persons, to be elected as herein-after mentioned:

(4.) Every Member of a Drainage Board going out of Office shall be re-eligible; and if at any Time when an Election of Members ought to take place the Places of any retiring Members are not filled up, the retiring Members whose Places are not filled up shall continue in Office until the succeeding Year:

(5.) Any casual Vacancy occurring in the Board may be filled up by the Board; but any Person so chosen shall retain his Office so long only as the vacating Member would have retained the same if no Vacancy had occurred:

(6.) During any Vacancy in the Board the continuing Members shall act as if such Vacancy had not occurred:

(7.) If a Member of a Drainage Board is adjudged bankrupt, or applies to take the Benefit of any Act for the Relief or Protection of Insolvent Debtors, or compounds with his Creditors, such Person shall cease to be a Member of the Board, and his Office shall thereupon be vacant:

(8.) Any Person who acts as Member of a Drainage Board without being duly qualified, or after he has become disqualified, shall incur a Penalty not exceeding Fifty Pounds;

and in any Proceeding for the Recovery of such Penalty the Burden of proving Qualification shall be upon the Person against whom such Proceeding is taken:

(9.) All Acts done by any Meeting of a Drainage Board or of any Committee of a Drainage Board, or by any Person acting as a Member of a Drainage Board, shall, notwithstanding it may be afterwards discovered that there was some Defect in the Appointment of any such Board or Persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Member.

Rules to be observed with respect to Electors of Drainage Boards.

**16.** Subject to any Provisions to the contrary that may be made by the Order constituting the District, the following Rules shall be observed with respect to the Electors of Drainage Boards:

(1.) The Electors for Members of a Drainage Board for any District shall be the Proprietors of Lands within such District:

(2.) Each Elector shall vote according to the following Scale; that is to say,

If his Property within such District shall be of an annual Value of less than Fifty Pounds, he shall have One Vote:

If such annual Value amount to Fifty Pounds, and be less than One hundred Pounds, he shall have Two Votes:

If it amount to One hundred Pounds and be less than One hundred and fifty Pounds, he shall have Three Votes:

If it amount to One hundred and fifty Pounds and be less than Two hundred Pounds, he shall have Four Votes:

If it amount to Two hundred Pounds and be less than Two hundred and fifty Pounds, he shall have Five Votes:

If it amount to Two hundred and fifty Pounds, he shall have Six Votes:

If it amount to Five hundred Pounds and be less than One thousand Pounds, he shall have Eight Votes:

If it amount to or exceed One thousand Pounds, he shall have Ten Votes.

How Value is to be ascertained.

**17.** For the Purposes of ascertaining the annual Value in the last preceding Section mentioned, and also for the Purposes of ascertaining

taining the Proportions of assenting or dissenting Proprietors under any of the Provisions of this Act, and also for the Purposes of the final Award to be made as herein-after mentioned, the Schedules of Value of the Lands deposited with the Commissioners before the Incorporation of the District, and signed by the Inspector, under the Provisions herein-before contained, shall be binding upon all Persons concerned.

Mode of Election of Drainage Boards, and Proceedings thereof.

**18.** Subject to any Provisions to the contrary that may be made by the Order constituting the District, the Mode of electing Members of Drainage Boards and the Proceedings of Drainage Boards shall be conducted in manner directed by the Schedule annexed hereto.

Certain Provisions of 10 & 11 Vict. c. 16. incorporated.

**19.** The Provisions of the Commissioners Clauses Act, 1847, with respect to—

(1.) The Contracts to be entered into and Deeds to be executed by the Commissioners;

(2.) The Liabilities of the Commissioners, and to legal Proceedings by or against the Commissioners;

(3.) The Appointment and Accountability of Officers of the Commissioners;

(4.) The Accounts to be kept by the Commissioners;

(5.) The giving Notices and Orders,

shall be incorporated with this Part of this Act; and in the Construction of this Part of this Act and the said incorporated Provisions, Part One of this Act, and the Order incorporating the Drainage District, shall together constitute "the Special Act."

*General Powers of Drainage Boards.*

Declaration of Powers of Drainage Boards.

**20.** The Powers to be conferred upon Drainage Boards acting within their Jurisdiction by a Provisional Order may extend to all or any of the following Acts:

(1.) To cleansing, repairing, or otherwise maintaining in a due State of Efficiency any existing Watercourse or Outfall for Water, or any existing Wall or other Defence against Water:

(2.) To deepening, widening, straightening, or otherwise improving any existing Watercourse or Outfall for Water, or removing Mill Dams, Weirs, or other Obstructions to Watercourses or Outfalls for Water, or raising, widening, or otherwise altering any existing Wall or other Defence against Water:

(3.) To making any new Watercourse or new Outfall for Water, or erecting any new Defence against Water, to erecting any Machinery or doing any other Act not herein-before referred to, required for the Drainage, necessary Supply of Water for

for Cattle, (Warping or Irrigation) of the Area comprised within the Limits of their Jurisdiction:

(4.) To make Surveys and Valuations, and to do all other Matters and Things which may be necessary for the Investigation and Execution of the above Works, or of any other Works under this Act:

(5.) To enter upon Lands by themselves, their Servants and Workmen, for the Execution of and carrying into effect the Powers conferred upon them by this Act:

Provided,

(1.) That no Person shall by virtue of this Act be compelled to execute, at his own Expense, any Works which he would not have been compelled to execute if this Act had not passed:

(3.) That full Compensation shall be made for all Injury sustained by any Person by reason of the Exercise by the Drainage Board of the above Powers in the Manner herein-after mentioned:

(4.) That the Exercise of the foregoing Powers shall be subject to the Restrictions herein-after mentioned.

Commissioners of Public Works to appoint an Arbitrator, on Application of Drainage Board.

**21.** After the Incorporation of a District under the Provisions of this Act, and before any Drainage Board shall enter upon the Execution of the Works, it shall be lawful for the said Commissioners, upon the Application of the Drainage Board, to appoint an Arbitrator between the Drainage Board and the Persons whose Lands are proposed to be taken or injuriously affected by the proposed Works to which the Plans and Estimates deposited as herein-before provided relate, and such Arbitrator shall, in relation to the Lands to be taken and Works to be made by the Drainage Board, as herein mentioned, be the Arbitrator under this Act; and if any such Arbitrator die, or refuse, decline, or become incapable to act, the said Commissioners may appoint an Arbitrator in his Place, who shall have the same Powers and Authorities as the Arbitrator first appointed.

Arbitrator may call for Documents, and administer Oaths.

**22.** The Arbitrator may call for the Production of any Documents in the Possession or Power of the Drainage Board, or of any Party making any Claim under the Provisions of this Act, which such Arbitrator may think necessary for determining any Question or Matter to be determined by him under this Act, and may examine any such Party and his Witnesses, and the Witnesses for the Drainage Board, on Oath, and administer the Oaths necessary for that Purpose.

Arbitrator to make and subscribe Declaration.

**23.** Before any Arbitrator shall enter upon any Inquiry he shall, in the Presence of a Justice of the Peace, make and subscribe the following Declaration; that is to say,

'I *A.B.*

'I *A.B.* do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of the Act [*naming this Act*]. *A.B.*

'Made and subscribed in the Presence of .'

And such Declaration shall be annexed to the Award when made; and if any Arbitrator, having made such Declaration, wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

Proceedings to ascertain Purchase Money and Compensation for Injuries.

**24.** Upon the first Appointment of such Arbitrator, the Schedules, Plans, Maps, and Sections which have been deposited with the Commissioners as aforesaid shall be delivered to him by the Commissioners; and thereupon the Drainage Board shall take the same Steps with respect to publishing of Notices in all respects as are required by the Railways Act (Ireland), 1851, and the Railway Act (Ireland), 1860, to be taken by a Railway Company upon the Appointment of an Arbitrator under those Acts, and the same Proceedings shall be thereupon taken by such Arbitrator and Drainage Board respectively as are by the said Acts required to be taken in the Case of Lands to be taken or Works to be done by a Railway Company under the said Acts; and the Arbitrator shall decide upon the Purchase Money to be paid by the Drainage Board for any Lands to be taken, and also upon the Compensation to be paid for injuriously affecting any Estate or Interest of any Person or Persons in any Lands by reason of the Execution of the proposed Works, and also upon the Accommodation Works, if any, to be executed by the Drainage Board; and such Compensation shall be ascertained, and the Amount thereof, when ascertained, shall be paid and recoverable, in the same Manner, and subject to the same Restrictions and Conditions in all respects, and to the same Right of Traverse, as is by the said Acts provided in the Case of the Purchase Money and Compensation for Lands taken or injuriously affected by the Works proposed to be made by any Railway Company; and every Award to be made under the Provisions of this Act shall be subject to the same Provisions as are in the said recited Acts contained with reference to Awards under the said Acts.

Provisions of Railways Acts (Ireland), 1851 and 1860, as to Ascertainment of Claims, incorporated.

**25.** For the Purposes mentioned in the last Section the Railways Act (Ireland), 1851, and Railways Act (Ireland), 1860, shall be incorporated with this Act; and in the Interpretation of those Acts,

The Expression "the Special Act," used in the said Acts, shall be taken to mean or apply to the Provisional Order sanctioning the Purchase of Lands and the Execution of Works by the Drainage Board:

The Expression "the Railway," used in the said Acts, shall be taken to mean or apply to the Works proposed to be executed by the Drainage Board:

The Expression "the Company," used in the said Acts, shall be taken to mean the Drainage Board who shall have obtained a Provisional Order sanctioning the Purchase of Lands and the Execution of Works in Manner aforesaid.

Assessment of Compensation to Millowners.

**26.** The Arbitrator under this Act, and also the Jury which shall try any Traverse under this Act, shall have regard, in Cases of Mills or Factories, to any Benefit resulting or which may result from any Improvement which shall be effected by the Execution of the Works in the Water Power or Constancy of Supply of Water to such Mill or Factory, or by Relief from Back Water afforded to it; and every Arbitrator and Jury to whom any Question shall be referred under this Act shall set off such Benefit or estimated Benefit against the Sum or Sums which shall be assessed by him or them for Purchase Money or Compensation by reason of the Execution of the Works.

Remuneration of Arbitrator.

**27.** The Salary or Remuneration, travelling and other Expenses, of the Arbitrator, including all Costs reasonably and properly incurred by him, shall be paid by the Drainage Board, and the Amount of such Costs, Charges, and Expenses shall from Time to Time be included in and form Part of the Expenses incidental to the Execution of the Works in the Districts in relation to which such Expenses shall be incurred, and shall be defrayed accordingly out of the Rates.

Arbitrator may direct by whom Costs to be paid.

**28.** It shall be lawful for the Arbitrator, where he thinks fit, to adjudicate by whom the Costs of such Arbitration shall be borne, and to certify the Amount of the Costs properly payable to the Party entitled thereto in relation to the Arbitration, and the Amount of the Costs so certified shall be paid by the Drainage Board or the Claimant, as the said Arbitrator may award.

Clause B. After Publication of final Notice, Drainage Board may commence the Works.

**29.** At any Time after the making of a Final Award, and the Payment of the Purchase Money and Compensation thereunder, as herein-before provided, the Drainage Board may commence and proceed with the Works proposed to be executed for the Drainage or Improvement of the Land to which the Plans, Sections, and Estimates deposited with the Commissioners of Public Works may relate.

Clause C. Remedy by summary Application

**30.** Any Person interested in any Mill or Factory permanently affected or proposed to be permanently affected by anything done or proposed

proposed to be done under the Provisions of this Act may apply by Petition in a summary Way to the Court of Chancery in Ireland, complaining that the due Amount of Water Power has not been properly secured to or for such Mill or Factory, or that any Act has been done or has been threatened or proposed to be done by any Drainage Board, or by any Person acting or pretending to act under the Provisions of this Act, by which permanent Injury has been or may be sustained by such Mill or Factory, or by such Person so interested in respect thereof, and whether the Act complained of has been authorized by this Act or otherwise, and thereupon such Court shall make such Order directing such Proceedings as shall seem proper before One of the Masters of such Court in relation to the Matter of the said Petition; and upon the Report of such Master it shall be lawful for such Court to direct such Works to be made by such Drainage Board as to such Court of Chancery shall seem necessary or proper, and to make from Time to Time such further or other Order, whether for Compensation to any Party interested in such Mill or Factory, or for restraining the Drainage Board or any other Person from doing any Act, or otherwise, as to such Court shall seem just, and to issue any Writ or Writs of Injunction for any of the Purposes aforesaid for which the same may be required; and such Court shall have Power to award Costs to either Party: Provided always, that such Petition shall be presented within Six Months after the Act complained of.

to the Court of Chancery, in the event of Drainage Boards failing to secure the due Amount of Water Power to the Owner of any Mill or Factory.

**31.** No Person shall be entitled to proceed at Law or in Equity for or in respect of any Compensation or Damages which he shall be entitled to by reason of any Works proposed to be executed by any Drainage Board, but the Right to such Compensation or Damages, and the Amount thereof, shall be ascertained in the Manner hereinbefore provided, and not otherwise.

Compensation to be ascertained as before provided.

*Existing Liabilities.*

**32.** The Liability of any Person whomsoever to defray or contribute towards the Expense of making, completing, altering, amending, or maintaining any Sewer or Drain, or any Walls or Works for protecting the Land against the Force or Encroachments of the Sea or of any River, or doing any other Work within the Jurisdiction of a Drainage Board, shall continue, and the same may be enforced as if this Act had not passed.

Saving of existing Liabilities to repair.

CLAUSE D.

**33.** It shall and may be lawful for Drainage Boards, under this Act, from Time to Time, as Occasion shall require, to borrow and take up at Interest, of and from any Person who shall be willing to advance and lend the same, any Sum or Sums of Money required for

Drainage Boards may borrow Money for the Purposes of this Act.

defraying the Costs, Charges and Expenses incurred or to be incurred by them in the Execution of any Works for the Drainage or Improvement of any Land, or otherwise, under or by virtue of this Act, and to include in such Loan Interest upon the Principal Sum which may be agreed to be paid during the Interval between such Loan and the making of the Award relative to the Works for which such Loan may have been contracted; and the Repayment of such Sum or Sums of Money, with Interest at a Rate not exceeding Five Pounds per Centum per Annum, shall be secured to the Party lending the same, upon the Monies accruing to the Drainage Board under or by virtue of the Award to be made by the Drainage Board, as herein-after mentioned.

CLAUSE E. Drainage Boards to grant Debentures to Lenders for Principal and Interest.

**34.** In all Cases of Monies to be borrowed and taken up at Interest by Drainage Boards, under the Provisions of this Act, it shall and may be lawful for the Drainage Boards from Time to Time to grant a Security in the Form of Debenture for such Monies, under their Common Seals, to every Person who shall advance any Sum of Money for the Purposes of the said recited Acts or this Act, every such Debenture being numbered in the Order of its Execution by the Drainage Boards, and setting forth the Amount of the Sum for which each such Debenture is issued, and the Rate of Interest payable for the same, and the Period to expire before the same shall upon Notice become payable, with a Reference to the Land for the Drainage or Improvement of which or other Work for the Construction of which such Sum shall have been so borrowed or taken up, and the District within which the same or any of them may be situate; and that every such Debenture shall be made in the following Words, or as near thereto as the Circumstances of the Case will admit:

Form of Debenture.

No.

Debenture to Lender of Money.

Amount £

Drainage District in the County of } No.

in Ireland, 25 & 26 Victoria, c.

By virtue of an Act passed in the Twenty-fifth and Twenty-sixth Years of the Reign of Her Majesty Queen Victoria, intituled "The Drainage Act (Ireland), 1862," the Drainage Board of the District, in consideration of the Sum of Sterling to them lent and paid by , doth hereby certify, and it is hereby witnessed, That the Monies to become payable to the said Drainage Board under their final Award, for and in respect of the Drainage, Improvement, and other Works in the District of in the County of particularly mentioned, described, and referred to in the Maps, Plans, Schedules, and Estimates deposited with the Commissioners of Public Works in Ireland, pursuant to the said Act, are hereby charged with the

the Repayment of said Sum of , such Repayment to be made to the said or other the Person entitled thereto by Endorsement hereon, in One Payment, at such Time after the Expiration of Years from the Date hereof as may be be appointed by the said Drainage Board, pursuant to Notice to be given for that Purpose, with Interest at and after the Rate of per Centum per Annum, such Interest to commence and to be computed from the Day of the Date hereof, and be payable half-yearly, on each First Day of January and First Day of July until the Principal Sum shall be repaid or be repayable, pursuant to Notice, as aforesaid, which Sum so lent and advanced by the said was taken up and borrowed by the said Drainage Board for the Purposes of said Acts.

In witness whereof the said Drainage Board have hereunto affixed their Common Seal, this Day of

Entered

Common Seal.

And the Monies mentioned in each such Debenture, with the Interest thereon, shall be charged upon and repayable and paid by the said Drainage Board out of the Monies which shall come to their Hands under the final Award to be made by them in respect of the Lands or District for or in respect of which such Monies shall have been borrowed; and any such Debenture may be transferred by Endorsement thereon; and all Persons to whom such Securities shall be so given, or other Person entitled thereto by Endorsement thereon as aforesaid, shall be entitled to the Monies accruing and payable under such final Award, according to and in the Order of the Number of each such Debenture as aforesaid: Provided also, that nothing herein contained shall be deemed, construed, or taken to extend to make the Members of Drainage Boards or any of them personally, or their respective Lands or Tenements, Goods and Chattels, liable to the Repayment of any of the Monies to be borrowed or secured in pursuance of this Act, save in so far as they as they are or may be liable under and by virtue of the Award to be made as herein-after provided.

Debentures may be transferred.

CLAUSE F.

Drainage Boards to pay off Debentures on Notice after Period limited for such Purpose.

**35.** In all Cases of Debentures issued as herein-before provided it shall be lawful for the Drainage Boards, at any Time after the Expiration of the Period when under the Provisions aforesaid any such Debenture may, upon Notice as aforesaid, become payable, to publish a Notice in the Dublin Gazette, and in such other Newspapers as they shall deem fit, fixing a Time, not sooner than Two Calendar Months from the Date of such last-mentioned Notice, when the Principal Money secured by any such Debenture shall be paid or payable, having regard to the numerical Order in which the several Debentures

for the District shall have been executed by the Drainage Boards; and in such Notice the Debenture to become payable shall be described by the Name of such District in respect of the Works within which such Debenture shall have been so issued, and by the Number on such Debenture; and it shall be lawful for the Drainage Board, at the Expiration of the Time in such Notice stated, to pay off the Monies due on account of any such Debenture mentioned in such Notice; and from and after the Expiration of the Time appointed by the said Notice the Interest upon the Principal Monies secured by any such Debenture shall cease and determine.

CLAUSE F *a*. Lists of all Debentures to be prepared, and Copies sent to Clerks of the Peace.

**36.** Drainage Boards shall cause Lists to be made out of all Debentures which shall be issued by them under the Provisions of this Act, specifying the Number of each Debenture, the Name of the Person to whom it has been issued, and the Amount thereby secured to such Person; and Copies of such Lists shall from Time to Time be forwarded by the Drainage Boards to the Clerks of the Peace for the respective Counties within which the Drainage Districts are situate; and such Lists shall be kept by the said Clerks of the Peace in their Office as public Documents, and shall be open to Inspection of all Persons at all reasonable Times, upon Payment of a Fee of One Shilling.

CLAUSE G. Drainage Board to make an Award upon Completion of any of the Works.

**37.** As soon as conveniently may be after any Works for the Drainage or Improvement of any Land under this Act, or any other Work by this Act authorized to be executed, shall have been completed, the Drainage Board shall draw up or cause to be drawn up an Award or Instrument in Writing, which shall describe the Land or River drained or improved as aforesaid, and the Work or Works which shall have been so completed; and such Award shall also specify the several Quantities belonging to the reputed Proprietors respectively of such Land so drained or improved as aforesaid, and the original Value and the Increase in the Value of the Land so drained or improved; and such Award shall also specify the Amount of the Sums which shall have been expended in and about the Works which shall have been so executed for Drainage, or Improvement by Drainage, and all Expenses incident thereto (including the Interest of all borrowed Monies), and the Proportions of such Sums payable in respect of the several Parcels or Portions of the Land drained or improved by Drainage, towards Payment of the total Amount of the Costs, Charges, and Expenses of such Drainage, or incidental thereto, and whether the same shall be repaid in One Sum or by Instalments, and if by Instalments then said Award shall also specify the several Instalments, and the Manner by and in which such Proportions shall be paid, regard being had to the Degree of Benefit conferred as aforesaid,

said, and the Circumstances of each particular Case; and in the Case where any Water Power shall be improved by any Works so completed under the Provisions herein-before contained, or executed with the Consent of the Proprietors of Mills, under the Provisions of this Act, the said Award shall also specify the Lands liable under the Provisions of this Act to the Payment of the Expenses of the Execution of the Works of such Improvement or incidental thereto, and the Amount of such Expenses, and the Proportions thereof with which such Lands shall be respectively charged, and whether the same shall be repaid in One Sum or by Instalments as aforesaid; and the Drainage Board shall also cause to be inserted in every such Award all such other Determinations, Matters, and Things as the Drainage Board shall think necessary and proper; and the said Drainage Board shall also cause to be specified in every such Award the Proportion in which the Land so improved as aforesaid, and the Proprietors of such Lands in respect thereof respectively, for the Time being, shall in future be annually charged towards the Costs and Expenses which may from Time to Time be incurred in or about the maintaining, cleansing, and keeping in repair the several Watercourses, Sluices, Drains, Ditches, Cuts, Rivers, Lakes, Streams, Tunnels, Culverts, Banks, Bridges, Outlets, Weirs, Engines, Reservoirs, Embankments, Fences, and other Works to be executed under this Act, and shall specify, according to such Proportions as aforesaid, the Rate which shall be payable towards such Costs and Expenses as last aforesaid for the Year next ensuing the Date of each Award.

CLAUSE H.

A Draft of the Award to be printed and published, and a Copy deposited with the Clerk of the Peace.

**38.** The Drainage Board shall, within One Calendar Month next after the making of their said Award, cause a Draft thereof to be printed, and sold at a Price not exceeding Two Shillings and Sixpence for each printed Copy thereof, and shall within such Calendar Month cause such Draft or a Copy thereof to be deposited with the Commissioners of Public Works, and another Copy with the Clerk of the Peace for every County wherein the Land or River, or any Part thereof, which shall have been drained or improved, may be situate; and such Clerk of the Peace is hereby authorized and required to receive the same; and all Persons shall have Liberty to inspect the same on the Payment of Sixpence; and when such Draft of the Award has been so deposited, the Drainage Board shall cause Notice thereof to be posted in the usual Places for posting Grand Jury Notices in every Barony and County of a City and County of a Town in which such District or any Part thereof shall be situate, and shall also cause a like Notice to be inserted once in each Week for Three successive Weeks in some One or more Newspapers usually circulated in such District or the Vicinity thereof; and the Drainage Board shall by such Notice require all Persons who may desire to lodge Objections

Notice thereof to be posted at the usual Places, and inserted in Newspapers, requiring Persons objecting thereto to send in their Objections.

Objections to the said Award to lodge the same at such Place within such District and before such Time as shall be specified in the said Notice; and the Drainage Board shall also in the said Notice state that they will proceed to hear any Objections which may be lodged, and to settle the Award, at such Time and Place in or near such District as shall be specified in the said Notice, such Time not to be sooner than Two Calendar Months from the first Publication of such Notice.

CLAUSE I. Commissioners to hear and determine Objections (if any) to Award.

**39.** The Drainage Board shall meet at such Time and Place as they shall so appoint, and shall examine into the Matter of any Objection which shall be so lodged to the Award, and shall hear all such proper Evidence as may be offered to them in respect thereof, and shall make such Alterations (if any) in the said Award as they shall think fit, and may adjourn such Meeting from Time to Time, and shall settle and seal such Award with the Common Seal of the Board.

CLAUSE K. Persons dissatisfied with Award may lodge Objections, and an Arbitrator may thereupon be appointed.

**40.** It shall be lawful for any Person or Persons dissatisfied with the said Award, within Three Months after the same shall have been made by the Drainage Board, to lodge any Objection or Objections thereto with the Commissioners of Public Works; and the said Commissioners shall, upon the Application of any Person or Persons who shall have lodged any Objection, and after the Expiration of such Period of Three Months, appoint an Arbitrator between the Drainage Board and the Persons whose Lands are charged or proposed to be charged by the Award of the Drainage Board; and the Commissioners shall forthwith cause a Notice to be inserted in some Newspaper circulating in the Drainage District to which such Award relates, stating the Appointment of such Arbitrator, and the Time and Place at which such Arbitrator will attend to hear Evidence in support of all such Objections as shall have been lodged as aforesaid, and requiring all Persons interested to appear at such Time and Place before such Arbitrator; and the Arbitrator so appointed shall attend in pursuance of such Notice, and shall proceed to consider the several Objections which shall have been lodged with the Commissioners of Public Works and such Arbitrator shall hear all such Evidence as may be offered in support of such Objections, and in case it shall appear to him, after full Investigation, that such Objections should be disallowed, he shall disallow the same accordingly; and if all such Objections shall be disallowed, then it shall not be competent for such Arbitrator to entertain any other Question in relation to the Award of the Drainage Board, but such Award shall be deemed to be final and conclusive upon all Parties, as if no Objections thereto had been lodged.

**41.** In

CLAUSE L. Arbitrator to make Award.

**41.** In case it shall appear to such Arbitrator that any One or more of such Objections should be allowed, he shall thereupon proceed, after full Inquiries, and after hearing all Evidence which shall be offered to him, to make an Award, which shall set forth the several Particulars herein-before required to be set forth in any Award to be made by the Drainage Board; and such Award, when made by any Arbitrator under this Act, shall be final and binding on all Persons concerned, and such Award shall have the same Effect in all respects as the Award herein-before required to be made by the Drainage Board.

CLAUSE M. Arbitrator before acting to make Declaration.

**42.** Every Arbitrator to be appointed under the Provisions lastly herein-before contained shall, before entering upon his Inquiries, make a Declaration, as herein-before required in the Case of an Arbitrator to be appointed before the undertaking of any Works; and such Arbitrator shall have the same Powers of summoning Witnesses, and calling for the Inspection of Documents, and generally for the ascertaining of all Matters to enable him to make his Award, as are by the Railways Act, Ireland (1851), and Railways Act, Ireland (1860), given to an Arbitrator acting under said Acts; and he shall also have Power, by himself and his Servants, to enter upon any Lands within the Drainage District, in case he shall deem it necessary or expedient so to do for the Purposes of his Award.

CLAUSE N. Costs of Arbitration to be deemed Part of Expenses of Execution of Works.

**43.** All Costs, Charges, and Expenses of any Arbitration, under the Provisions lastly herein-before contained, shall be deemed to be Portion of the Expenses incidental to the Execution of the Works, and shall be defrayed accordingly; and the Amount of such Costs, Charges, and Expenses shall be borne rateably by the Proprietors within the District whose Lands are chargeable under the Award, and in the Proportion of the Sums chargeable under the said Award, and such Sums shall be recoverable in the same Manner as the Sums made payable by said Award.

CLAUSE O. Award, when finally settled, to be deposited in the Court of Chancery.

**44.** Every Award, when finally settled by the Drainage Board, with a proper Map or Plan annexed thereto, describing the District and the Lands therein to which such Award shall relate, shall be enrolled in the Rolls Office of Her Majesty's Court of Chancery in Ireland within Three Months after same shall have been finally settled, and a Copy thereof shall be deposited with the Clerk of the Peace of each County in which such District shall be situate, who is hereby authorized and required to receive and deposit the same amongst the Records of the County; and such Award, when so finally settled and enrolled, shall be binding and conclusive on all Parties, and a Copy thereof, certified by the proper Officer of Her

Majesty's Rolls Office, shall be Evidence that it was duly made, and that all the Requisitions of this Act in relation thereto were complied with; and the Drainage Board shall, within One Month after the said Award shall be finally settled, cause such Award to be printed, and kept for Sale at a Price not exceeding Two Shillings and Sixpence for each printed Copy thereof.

CLAUSE P. Apportioned Expenses to be charged on Lands.

**45.** The respective Sums of Money which by the Award of the Drainage Board shall be specified as the Proportions or Contributions payable in respect of the several Parcels or Portions of the Land drained or improved by Drainage or by any Works under this Act, towards the total Amount of the Sums expended in and about such Drainage or Improvements as aforesaid, with Interest for such respective Sums of Money at the Rate not exceeding Five Pounds per Centum per Annum from the Date of such Award, shall be charged on such several Parcels or Portions of the Land so drained or improved as aforesaid, and that in preference to and with Priority over all Incumbrances on such Land; provided nevertheless, that any Quit or Chief Rent issuing thereout or other Incumbrance thereon previously to the Date of the said Award shall have Priority to such Charges to the Extent of the Value of such Land before the Improvements were effected, but no further; and the same respective Sums of Money, with such Interest for the same as aforesaid, shall also be charged upon all such other Land belonging to the same Proprietor, situate within One Mile of any Part of the Lands so drained or improved, as the Drainage Boards shall by the said Award, or any Instrument under their Hands and Seals, and enrolled in the said Rolls Office, direct, limit, and appoint, having regard to the Sufficiency of the said Lands to satisfy and secure the Charge thereon, but subject as to such other Land to the full Amount of all Incumbrances affecting the same prior to the Date of the said Award.

CLAUSE Q. In case of Nonpayment of Money so charged Drainage Boards may enter into Receipt of the Rents, and mortgage the Land.

**46.** If any Sum of Money so charged as aforesaid, or any Instalment thereof, or any Interest in respect thereof, shall remain unpaid for the Space of Three Calendar Months next after the Time appointed for the Payment of the same by the said Award, then it shall be lawful for the Drainage Board, or any Person authorized by them, to enter upon the Land charged with or liable to the Payment of the Sum of Money or Interest so in arrear, or any Part thereof, (but subject nevertheless to such Quit or Chief Rent or other Incumbrance (if any) as aforesaid), and the Rents and Profits of such Land to receive and take until thereby or otherwise the Sum and Interest so due (together with all Costs and Expenses attending or occasioned by such Entry and Receipt of the Rents, Profits, and Issues of such Land) shall be fully paid and satisfied; and it shall be lawful for the Court

Court of Chancery in Ireland, upon the Application by Petition of the Drainage Board, to appoint a Receiver of the Rents, Profits, and Issues of such Land, which Receiver shall have full Power to receive the same Rents, Profits, and Issues, and apply the same, after Deduction of the necessary Expenses of the Application to the said Court, and of such Quit or Chief Rent issuing out of such Lands and Premises (if any), and without Prejudice to such prior Incumbrances, or any Remedy for the Recovery of the same respectively, in Payment of the Sum and Interest so due, until the same shall be fully paid; and it shall also be lawful for the Drainage Board, if they shall so think fit, to raise such Sum and Interest, and all Costs and Expenses attendant thereon, by Mortgage of such Land or a competent Part thereof; and every such Mortgage, and every Receipt given for the Consideration Money, shall be valid and effectual to all Intents and Purposes whatsoever; and no Mortgagee shall be bound to see to the Application of his Mortgage Money, or to inquire whether the Mortgage made by the Drainage Board is hereby authorized.

CLAUSE R. Proprietors of less than Fee Simple may charge the Expenses on the Lands.

**47.** Any Person entitled to less than an immediate Estate of Fee Simple may charge (according to the like Priority, and subject to the like Incumbrances as aforesaid,) the Land to which he shall be entitled, and which shall have been drained or improved by Drainage, under the Provisions of this Act, with the Proportion of any Expenses to be defrayed by him under the Award of the Drainage Board, or any Part thereof, with lawful Interest thereon, but so nevertheless that the Charge upon such Lands or Premises shall be lessened in every successive Year (to be computed from the Date of such Award) by the Amount of at least One Twentieth Part of the whole Sum of the Instalments charged thereon by the Award of the Commissioners, and the Interest in respect thereof.

CLAUSE S. Tenants paying Monies on account of Landlord to deduct them from Rent.

**48.** Every Occupier of any Land who, not being a Proprietor thereof within the Meaning of this Act, shall pay any Sum of Money for the Land in his Occupation, on account of his Landlord, any Sum charged thereupon under and by virtue of the Provisions of this Act, shall and he is hereby authorized to deduct and retain out of his Rent the Amount of the Sum of Money which he shall so pay as aforesaid, and the next immediate Landlord of such Occupier, if not himself a Proprietor of such Land within the Meaning of this Act, shall and he is hereby authorized to make the like Deduction from the Rent payable by him, and so on each Sub-Lessee and Sub-Lessor of such Land, not being a Proprietor thereof within the Meaning of this Act, being entitled to deduct the same so charged upon such Land under or by virtue of this Act, from the Rent payable to his next immediate Landlord, until such Deduction shall be made from the Rent

payable to a Person being a Proprietor within the Meaning of this Act, who shall not be entitled to make any such Deduction from the Rent, if any, payable by him; and every such Occupier, Sub-Lessee, or Sub-Lessor, paying any such Sum of Money, shall be acquitted and discharged of the Sum so paid by him, as fully and effectually as if the same had been actually paid to his Landlord (except where there shall or may be any Lease or Agreement to the contrary); but nothing herein contained shall extend or be construed to enable any Occupier or Lessee to deduct from his Rent any Costs or Expenses incurred by Nonpayment of the Monies hereby imposed or authorized to be levied.

Drainage Boards to determine Amount of increased Rent to be paid for Land improved.

**49.** After the Completion of any Drainage Works under this Act, in case any Land which shall be drained or improved by such Drainage Works shall be in the Occupation of a Person who shall not be a Proprietor thereof within the Meaning of the Provisions in that Behalf herein-before contained, or in case any Land so drained or improved shall be held under any Person who shall, within the Meaning of the aforesaid Provisions, be a Proprietor thereof by any other Person or Persons, under any Lease, Agreement, or Contract for a Lease, or shall be held under any Lease, Agreement, or Contract for a Lease granted or made by any Person or Persons having any immediate or derivative Title from or under such Proprietor, then and in such Case the Drainage Board shall determine the Amount of increased Rent or Rents which such Occupant and other Person or Persons having such immediate or derivative Title from or under such Proprietor as aforesaid shall pay in consequence of any Improvement of such Land, regard being had to the Duration, Extent, and Value of the Interest of such Occupant or Person or Persons in such Land, and the necessary Expenses to be incurred in the Cultivation thereof, and the peculiar Circumstances of each Case; and the Landlord or respective Landlords of such Occupant or other Person or Persons, and every intermediate Landlord, shall have the same Remedies for the Recovery of such increased Rent or Rents as he or they was or were entitled to for the Rent or Rents originally reserved; and the Decision of the Drainage Board shall be signified by Endorsement under their Common Seal on the Lease or Instrument, or Leases or Instruments of Demise, or by a separate Instrument, to be executed in like Manner: Provided always, that Notice shall be given by the Drainage Board to the Occupier or other Person whose Rent is proposed to be increased of the Intention to make such Increase, and by such Notice a Time and Place shall be specified at which it shall be lawful for such Occupier or other Person to appear before the Drainage Board, and make any fair and reasonable Objection

Objection which he may have to the Rent being increased by the Drainage Board in manner aforesaid.

Appeal to Quarter Sessions.

**50.** Any Person aggrieved by any such Decision may appeal therefrom to the Chairman of the County or of the Division or Riding of the County in which the principal Office of such Drainage Board shall be situate, and such Chairman may confirm, annul, or modify the same accordingly; but no such Appeal shall be entertained unless it is made within Four Months next after the making of such Decision nor unless Ten Days Notice in Writing of such Appeal, previously to the Quarter Sessions at which same shall be heard, stating the Nature and Grounds thereof, is served on the Drainage Board, nor unless the Appellant, within Four Days after the Service of such Notice, enter into Recognizances, with Two sufficient Sureties, before a Justice of the Peace, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Clause T. Drainage Boards to hold annual Meetings, and fix the Amount to be raised for Maintenance and Repairs for the ensuing Year.

**51.** For the Purpose of effectually sustaining and upholding, in all Cases in which Works shall be executed under this Act, all and singular the Drains, Watercourses, Banks, Sluices, Floodgates, Tunnels, Watergates, Buildings, Bridges, Steam or other Engines and other Works, and of supplying in such Cases all Things that may be required to work the same, and for the Payment of all necessary Expenses of Maintenance of Works of Drainage, Reservoirs, and Water Power, and all other Expenses incident thereto, it shall be lawful for the Drainage Board, and they are hereby respectively authorized and required, once in every Year, to meet in some convenient Place, and then to determine and fix the Sum of Money that shall be contributed and raised during the then ensuing Year for the Purposes of effecting, sustaining, supporting, and upholding all and singular the aforesaid Works, and for other the Purposes of this Act, and (having regard to and in the Proportions fixed for such Purpose by the said Award) to assess, rate, and tax the Proprietors of the said Land for and towards the Payment and Satisfaction of all such Sums of Money, Costs, Charges, and Expenses as may be required for the Purposes last aforesaid, and for the Payment and Satisfaction of any Sum of Money raised for such Purposes, and the Interest thereof; and the said several Sums so rated and assessed shall be charged on the Land so drained or improved, in preference to and with Priority over all Incumbrances thereon: Provided nevertheless, that any Quit Rent or Chief Rent or other Incumbrance thereon previous to the Date of the final Award herein-before mentioned shall have Priority to such Sums of Money so rated or assessed, to the Extent of the Value of such Land before the Improvements were effected, but no further; and the Drainage Board shall have the same

Powers, Rights, and Privileges, by Entry or Mortgage, to enforce the Payment of all such last-mentioned Sums of Money, Costs, Charges, and Assessments, as are herein-before given to them for the enforcing Payment of the Sums charged under their Award as aforesaid.

Service of Notices on Occupiers and Proprietors.

**52.** All Notices required to be served by Drainage Boards upon the Occupier or Proprietor of any Land shall either be served personally on him or be left at his last usual Place of Abode in Ireland, if any such can, after diligent Inquiry, be found, and in case he is absent from the United Kingdom, and his last usual Place of Abode cannot be found, after diligent Inquiry, it shall be affixed on some conspicuous Part of such Premises.

Notices to Corporations to be left at their principal Office.

**53.** If any Occupier or Proprietor on whom Notice is to be served is a Corporation Aggregate, or Joint Stock or other Company, or Body of Proprietors or Undertakers, such Notice shall be left at the principal Office of such Corporation, Company, or Body, or if no such Office can, after diligent Inquiry, be found, shall be served on some Agent, if any, of such Corporation, Company, or Body, but if no such Officer or Agent can be found it shall be left with the Occupier of the Lands, or if there be no such Occupier shall be affixed on some conspicuous Part of such Lands.

Clause U.

**54.** After the Incorporation of a Drainage District, under the Provisions of this Act, and during the Execution of any Works by the Drainage Board of such District, it shall and may be lawful for the Commissioners of Public Works, upon the Application of the Commissioners of Her Majesty's Treasury, or of any Person or Persons who shall have advanced any Monies upon the Security of the Works to be executed within such Drainage District, and in case it shall seem expedient to the said Commissioners, to appoint a duly qualified Officer to proceed to the District to inspect the Execution of the said Works, and to report to the said Commissioners upon the Sufficiency or Insufficiency thereof, and thereupon the said Commissioners shall make such Order relative to the Execution, Alteration, or Modification of such Works as to them will seem requisite, and shall transmit such Order to the Drainage Board of such District; and the Drainage Board shall thereupon proceed with the Execution, Alteration, or Modification of such Works, in accordance with the said Order of the Commissioners; and in the event of any Drainage Board wilfully neglecting or refusing to comply with such Orders, it shall be lawful for the said Commissioners to apply by summary Petition to the Court of Chancery in Ireland, and thereupon such Court shall make such Order thereon as shall seem just, and shall issue any Writ or Writs

Writs of Injunction to enforce any such Order, and shall have Power to adjudge by whom the Costs of any such Proceedings shall be borne.

Power to Treasury, out of Consolidated Fund, to make Advances to Drainage Boards.

**55.** *It shall be lawful for the Commissioners of Her Majesty's Treasury, out of the growing Produce of the Consolidated Fund of Great Britain and Ireland, upon Application to be made to them by any Drainage Board, and upon the Security of the final Award hereinbefore mentioned, to issue and advance from Time to Time to such Drainage Board such Sum or Sums of Money, to be applied by such Drainage Board in the Execution of any Works authorized by this Act, as to the said Commissioners of Her Majesty's Treasury may seem expedient, and such Sum may include Interest upon the Sum to be advanced between the Date of such Advance and the Date of the said final Award.*

Costs of legal Proceedings on Part of Drainage Boards.

**56.** All Costs, Charges, and Expenses incurred by Drainage Boards in instituting or defending any legal Proceedings instituted or defended by them in their Character of Drainage Boards may be defrayed out of the Rates leviable by them, and no Member of a Drainage Board shall be personally liable in respect of any such Costs, Charges, or Expenses.

*Tender of Amends.*

Tender of Amends.

**57.** If any Party has committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this Act or any Act incorporating a Drainage District, or by virtue of any Power or Authority hereby or thereby given, and if before Action brought in respect thereof such Party makes Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender has been made it shall be lawful for the Defendant, by Leave of the Court where such Action is pending, at any Time before Issue joined, to pay into Court such Sum of Money as he thinks fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

*Saving Clauses, and Miscellaneous.*

Saving Rights of Canal Owners and Wharfingers.

**58.** Nothing in this Act shall authorize any Drainage Board or Owner—

(1.) To interfere with any Sewers or other Works already or hereafter made and used for the Purpose of draining, preserving, irrigating, or improving Land under any Public, Local or Private Act of Parliament, so as to injuriously affect the same;

(2.) To interfere with any Lake, River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or the Supply of Water to any Lake,

Lake, River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, so as to injuriously affect the Navigation on such Lake, River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or the Use or Maintenance thereof, or to interfere with any Towing-path so as to interrupt the Traffic thereof, in Cases where any Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals are by virtue of any Act of Parliament or otherwise entitled to navigate on or use such Lake, River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or in respect of the Navigation on or Use of which Lake, River, Canal, Dock, Harbour, Lock, Reservoir, or Basin any Corporation, Company, Undertakers, Commissioners, Conservators, and Trustees, or Individuals are entitled by virtue of any Act of Parliament to the Receipt of any Tolls or other Dues;

(3.) To interfere with the Works or Supply of Water of any Body or Persons, corporate or unincorporate, supplying Water to any Town or Place, so as to injuriously affect the same;

(4.) To execute any Works in, through, or under any Wharfs, Quays, Docks, Harbours, or Basins, belonging to the Proprietor or Proprietors of any Inland Navigation constituted by Act of Parliament, or otherwise, or for the Use of which they are entitled by virtue of any Act of Parliament or otherwise to demand any Tolls or Dues.

Without the Consent of such Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals as are hereinbefore in that Behalf respectively mentioned, such Consent to be expressed in Writing, in the Case of Individuals under their Hands, in the Case of a Corporation under their Common Seal, and in the Case of a Company, Undertakers, Commissioners, Conservators, or Trustees, under the Hand of their Clerk or other duly authorized Officer or Agent.

Commissioners not to divert Rivers so as to injure Harbours.

**59.** Nothing in this Act shall authorize any Drainage Board to divert any River in such Manner as to injure or to diminish the Supply of Water to any Harbour, without the Consent of the Conservators or other Authority having the Management of such Harbour.

Power for Canal Commissioners to alter Sewers.

**60.** Any Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals authorized by virtue of any Act of Parliament to navigate on or use any River, Canal, Dock, Harbour, or Basin, or to demand any Tolls or Dues in respect of the Navigation on such River or Canal, or the Use of such Dock, Harbour,

or

or Basin, may, at their own Expense, and on substituting other Sewers, Drains, Culverts, and Pipes equally effectual, and certified as such by the Surveyor of the Drainage Board, take up, divert, or alter the Level of Sewers, Drains, Culverts, or Pipes constructed by the Drainage Board, and passing under or interfering with or with the Improvement or Alteration of such River, Canal, Dock, Harbour, or Basin, or the Towing-path of such River, Canal, Dock, Harbour, or Basin, and do all such Matters and Things as may be necessary for carrying into effect such Taking-up, Diversion, or Alteration.

Not to affect Contracts between Landlord and Tenant.

**61.** Nothing in this Act, save as herein otherwise provided, shall alter, interfere with, or affect any Lease, Contract, or Agreement that may have been entered into between Landlord and Tenant before the passing of this Act.

Penalty on Persons creating Obstructions or Nuisances.

**62.** No Person shall cause or permit any Obstruction in or otherwise injuriously affect any Watercourse in respect of which any Works shall have been commenced or executed by any Drainage Board, or shall, without the Consent of the Drainage Board, cause any filthy or unwholesome Water, or Washings of Manufactories or Mines, or other foul or poisonous Liquid, to flow into any such Watercourse; and any Person offending against this Enactment shall incur a Penalty not exceeding Five Pounds, and a further Penalty of Forty Shillings for every Day during which the Offence is continued, to be recovered in a summary Way, as herein-before provided; but this Section shall not apply to any Person having a legal Right to create such Obstruction or other Injury, or to cause such Water, Washing, or Liquid as aforesaid to flow into any existing Watercourse.

Drainage Boards may remove any insufficient Bridge, erecting a temporary Bridge.

**63.** If any existing Bridge, Culvert, or Archway for the Discharge of Water under any public Road shall, in the Opinion of the Drainage Board, be insufficient for the free Discharge of such Water, and shall by reason of such Insufficiency cause or tend to cause the flooding of any Land to be drained or improved by the Works of the Drainage Board, it shall be lawful for the Drainage Board to take down and remove such Bridge, Culvert, or Archway, the Drainage Board constructing a temporary Bridge, Culvert, or Archway in the Place of that so to be taken down and removed, and supporting and maintaining the same for the Space of Twelve Months, the Expense of the taking down and Removal of such Bridge, Culvert, or Archway, and constructing, supporting, and maintaining such temporary Bridge, Culvert, or Archway, to form Part of the Costs of the Works in the District within which any such Bridge, Culvert, or Archway may be situate: Provided always, that before proceeding to remove any such Bridge, Culvert, or Archway the Drainage Board shall cause Thirty-

one Days Notice to be given to the County Surveyor of the County or of each County (if more than One) in which such Bridge, Culvert, or Archway shall be wholly or in part situate, stating the Intention of the Drainage Board to remove such Bridge, Culvert, or Archway, and communicating such precise Information, including a detailed Plan and Cross Section of the River or Stream over which a new Bridge, Culvert, or Archway is to be built, as may be requisite to show the Dimensions of the Waterway of such new Bridge, Culvert, or Archway, for the Purpose of enabling the County Surveyor to prepare a proper Plan, Specification, and Estimate for such new Bridge, Culvert, or Archway; and the Surveyor of any such County to whom such Notice shall be given shall at the next Assizes after the Receipt of such Notice lay the same, together with a proper Plan, Specification, and Estimate for such new Bridge, Culvert, or Archway, before the Grand Jury of such County.

Grand Jury of County to present for a new Bridge, &c. &c.

**64.** The Grand Jury of the County in which any such new Bridge, Culvert, or Archway shall be required to be built or constructed, is hereby authorized and required (without any Application to Presentment Sessions) to present the Amount necessary for the building of such Bridge, Culvert, or Archway, according to such Plan, Specification, and Estimate as aforesaid, or such other Plan, Specification, and Estimate as such Grand Jury may approve; and the Grand Jury of such County shall thereupon appoint a Committee of not less than Three or more than Five Persons, any Three of whom shall be a Quorum, to contract and agree with any Party or Person willing to undertake the building of such Bridge, Culvert, or Archway, or the said Grand Jury may authorize and direct that the said Bridge, Culvert, or Archway may be built and constructed out of the Money so presented, under the immediate Superintendence and Direction of the County Surveyor of such County.

Provision in case Bridge is on Boundary of Two Counties.

**65.** When any such new Bridge, Culvert, or Archway shall be over any Stream or River forming a Boundary between Two Counties, the same shall be built or constructed at the Expense of such Two Counties in equal Moieties, and the Grand Jury of each such County shall (without any Application to Presentment Sessions) present the Moiety of the Sum necessary for building or constructing such new Bridge, Culvert, or Archway, and appoint a Committee, as herein-before provided in the Case of One County; and the Committees so appointed shall meet and act as a joint Committee, for the Purpose of contracting as aforesaid for the building or constructing of such new Bridge, Culvert, or Archway, at the joint Expense of the said Counties as aforesaid; and in case both or either of such Grand Juries shall neglect to make such Presentment and appoint such Committees

Committees as aforesaid, or in case both or either of such Committees shall neglect to contract for the Construction of such Bridge, Culvert, or Archway, or if from any other Cause such Bridge, Culvert, or Archway shall not be built or constructed within Twelve Months after such Notice by the Drainage Board to the Surveyor of each County as herein-before provided, it shall be lawful for the Drainage Board to have such new Bridge, Culvert, or Archway built in such Manner as to them shall seem sufficient, and by a Certificate under their Common Seal to signify to the Secretary of the Grand Jury of each such County the Amount of the Moiety of the Expenses incurred by them in building or constructing such Bridge, Culvert, or Archway; and the Secretary of the Grand Jury of each such County shall lay such Certificate before the Grand Jury of such County at the Assizes to be held for such Counties respectively next after the Receipt of such Certificate, and thereupon the Grand Jury of each such County shall (without any Application to Presentment Sessions) present the Amount mentioned in such Certificate, to be levied off such County, or any Barony or Baronies of such County, immediately after such Assizes, and to be paid to the Drainage Board; and in case the Grand Jury of any such County shall neglect or refuse to present the Sum so mentioned in such Certificate, the Judge of Assize shall make an Order directing that the Treasurer for such County shall insert such Sum in his Warrant, and the same shall be levied off such County, or any Barony or Baronies of such County, as aforesaid, in the same Manner as if the same had been presented by such Grand Jury.

Provision in case of Alteration of local Boundaries.

**66.** Where, in exercise of any Powers given by this Act, any Watercourse forming a Boundary Line between Two or more Counties, Baronies, Parishes, or other Areas defined by Law, is straightened, widened, or otherwise altered so as to affect its Character as a Boundary Line, the Board, Persons or Person, under whose Authority such Alteration is made, shall forthwith report the same to the Lord Lieutenant in Council, who, if satisfied that a new Boundary Line may be adopted with Convenience, shall, by Notice, to be published in the Dublin Gazette and in such other Manner as he may direct, declare that the Watercourse as altered shall either wholly or partially be substituted for the former Boundary Line, and the Limits of the Areas of which the Watercourse, when unaltered, was the Boundary, shall be deemed to be varied accordingly; but if the Lord Lieutenant in Council is of opinion that a new Boundary cannot wholly or partially be adopted with Convenience, he shall require the Board, Persons or Person, under whose Authority the Alteration in the Watercourse was made, to set out a Boundary upon the Line of the Watercourse as it existed before its Alteration, or in a new Course

in lieu thereof, in such Manner as he may direct and approve; and a Copy of the Dublin Gazette containing the Advertisement in respect of any Alteration of Boundary made in pursuance of this Section shall be admitted as Evidence in all Courts of Justice of the Fact of such Alteration having been made.

Power to Drainage Boards, in case Mill Power be improved, with Owner's Consent, to rate the Mill Owner towards the Expenses of the Works.

**67.** In case the Proprietor of any Mill or Factory shall consent that any Dam, Weir, or Watercourse, or other Work or Obstruction connected with such Mill or Factory, shall, for the Purpose of Drainage to be effected under this Act, be altered and rebuilt, or that such Mill or Factory shall, by any Works of the Drainage Board, obtain any increased Water Power, it shall be lawful for the Drainage Board to fix and determine the Amount of Rate or Contribution which shall be paid by the Proprietor of such Mill or Factory for the Improvement which shall be so effected, towards the Repayment of the Costs and Expenses of the Works to be executed within the District within which such Mill or Factory is situate, and the Rate which shall be paid in future for such increased Water Power; and the Drainage Board shall have such and the like Powers and Authorities to recover the Amount of Rate which shall be so fixed and determined as are given to them by this Act for the Recovery of any other Rates or Charges to be imposed by them under the Authority of this Act.

Power to rate Mills and Factories for increased Supply of Water from Works for Drainage, with Assent of Owners of Mills and Factories possessing more than Half the working Water Power.

**68.** In all Cases of Drainage under this Act, in which it shall be found by the Drainage Board practicable to improve the working Water Power of any Mills or Factories situate within their District, and where the Proprietors of such Mills or Factories possessing more than One Half of the Value of the working Water Power of all such Mills or Factories which may derive Benefit from such Works shall signify their Assent in Writing to the Execution of the proposed Works, it shall and may be lawful for the Drainage Board to execute all such Works as may be necessary for the Improvement of such Water Power; and that all and every the Powers, Authorities, and Provisions in this Act given and contained for the Execution of any Works hereunder shall be held and deemed to be applicable to the Execution of the Works which the Drainage Board may deem necessary for the Improvement of such Water Power, and for the Purpose of Contributions towards the Repayment of the Costs and Expenses of the Works to be executed in the District within which any such Mill or Factory may be situate; and it shall and may be lawful for the Drainage Board to assess and rate all the Mills and Factories which in the Opinion of the Drainage Board are or shall be benefited by any of the Works executed within such District, and to fix and determine the Amount of such Rate or Contribution which shall be paid by the Proprietors of each such Mill or Factory for the Improvement which shall be so effected

effected, and also to fix and determine the Proportion in which each such Mill or Factory shall in future be rated for the Maintenance of the Works within any such District, regard being had in fixing such Assessment and Rate and Proportion of Rate respectively aforesaid to the Degree of Benefit conferred upon each such Mill or Factory.

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## PART II.

### *Power of Private Owners to procure Outfalls.*

Application for Outfall to adjoining Owner.

**69.** Any Person or Persons interested in Land, who is or are desirous to drain the same, and in order thereto deems it necessary that new Drains should be opened through Lands belonging to another Owner or Owners, or that existing Drains in or immediately adjoining Lands belonging to another Owner or Owners should be cleansed, widened, straightened, deepened, or otherwise improved, may apply to such Owner or Owners, who is or are herein-after referred to as the adjoining Owner or Owners, for Leave to make such Drains or Improvements in Drains through, on, or adjoining the Lands of such Owner or Owners.

Mode of making Application.

**70.** Any such Application as aforesaid shall be by Notice in Writing under the Hand of the Applicant or Applicants, and shall be served on the Owner or Owners, and also on the Occupier or Occupiers, if the Owner be not the Occupier, in manner in which Notices are required to be served on Proprietors and Occupiers under the First Part of this Act. The Notice shall state the Nature of such Drains or Improvements in Drains, be accompanied by a Map, on which the Length, Width, and Depth of the proposed Drains or Improvements in Drains shall be delineated, and shall further state the Compensation, if any, which the Applicant or Applicants proposes or propose to pay.

Assent of adjoining Owner.

**71.** The adjoining Owner or Owners may, by Deed under his or their Hand and Seal, assent to such Application, upon such Terms and on Payment of such Compensation as he or they may require, and any Assent so given shall be binding on all Parties having any Estate or Interest in the Land, subject to the following Provisions:

1stly. That any Arrangement entered into by any adjoining Owner under any Disability or Incapacity, or not having Power to assent to such Application except under the Provisions of this Act, shall not be valid unless the same is approved by Two Surveyors, one of whom is to be nominated by the Applicant or Applicants, and the other by the adjoining Owner; and each of such Surveyors, if they approve of the Arrangement, shall annex to the

Document containing the same a Declaration to that Effect, subscribed by them:

2dly. That any Compensation to be paid by the Applicant or Applicants to the adjoining Owner in Cases where such Owner is under any Disability or Incapacity, or has not Power to assent to such Application except under the Provisions of this Act, shall be applied in manner in which the Compensation coming to Parties having limited Interests, or prevented from treating, and not making Title, is applicable, under "The Lands Clauses Consolidation Act, 1845:"

3dly. That any Occupier or Person other than the Owner interested in the Lands shall be entitled to Compensation for any Injury he may sustain by the making of the proposed Drains or Improvements in Drains, so that the Claim therefor be made within Twelve Months after Completion of such Drains or Improvements in Drains, the Amount of such Compensation to be determined, in case of Dispute, by Two or more Justices in Petty Sessions assembled, or if such Occupiers or other Person do not consent, by Arbitration.

Record of Assent of adjoining Owner.

**72.** The Applicant or Applicants shall forward to the Clerk of the Peace of the County, Riding or Division of the County, wherein the Land is situate the Deed containing the Assent of the adjoining Owner to the proposed Drains or Improvements in Drains, who shall keep the same in his Office as a Record of the Proceedings between the Parties.

Dissent of adjoining Owner.

**73.** The adjoining Owner shall be deemed to have dissented from the Application made to him if he fail to express his Assent thereto within One Month after the Service of the Notice of Application on him; and in the event of such Dissent there shall be decided, by Two or more Justices in Petty Sessions assembled, unless the adjoining Owner require the same within such Period of One Month to be decided by Arbitration, the Questions following; that is to say,

(1.) Whether the proposed Drains or Improvements in Drains will cause any Injury to the adjoining Owner, or to the Occupier or other Person interested in the Lands:

(2.) Whether any Injury that may be caused is or is not of a Nature to admit of being fully compensated for by Money.

Result of Decision.

The Result of any such Decision shall be as follows; that is to say,

(1.) If the Decision is that no Injury will be caused to the adjoining Owner, to the Occupier, or other Parties interested in the Lands, the Applicant or Applicants may proceed forthwith to make the proposed Drains or Improvements in Drains:

(2.) If

(2.) If the Decision is that Injury will be caused to the adjoining Owner, Occupier, or other Parties interested in the Lands, but that such Injury is of a Nature to admit of being fully compensated by Money, the Justices or Arbitrators shall proceed to assess such Compensation, and to apportion the same amongst the Parties in their Judgment entitled thereto; and in assessing the Amount of such Compensation the Justices or Arbitrators shall take into consideration the Benefit, if any, to be derived from such Drains or Improvements by such adjoining Owner, Occupier, or other Persons, and to set off the same against the Amount to be assessed by them for such Compensation; and on Payment of the Sum so assessed the Applicant or Applicants may proceed to make the proposed Drains or Improvements in Drains:

(3.) If the Decision is that Injury will be caused to the adjoining Owner, Occupier, or other Parties interested in the Lands, and that such Injury is not of a Nature to admit of being fully compensated by Money, the Applicant or Applicants shall not be entitled to make the proposed Drains or Improvements in Drains.

Application of Compensation in case of Owners under Disability.

**74.** Where the Compensation assessed by the Justices or Arbitrators under the last preceding Section is payable to any Owner or other Person who is under any Disability or Incapacity, or is not entitled to receive the same for his own Benefit, such Compensation shall be applied in the Manner in which the Compensation is applicable under the "Lands Clauses Consolidation Act, 1845."

If Drainage Scheme approved of, Map shall be prepared.

**75.** The Justices or Arbitrators, as the Case may be, in the event of their approving of a Scheme of Drainage as proposed by the Applicant or Applicants, or as modified by themselves, shall cause a Map thereof to be prepared, and shall certify under their Hands the Correctness of such Map; and it shall be the Duty of the Applicant or Applicants to forward the same to the Clerk of the Peace of the County, Riding or Division of the County, wherein the Land is situate, who shall keep the same in his Office as a Record of the Proceedings between the Parties.

Power of Applicant to clear Drains.

**76.** After Drains have been opened or Improvements in Drains made, in pursuance of Part Two of this Act, it shall be lawful for the Applicant or Applicants, his or their Heirs and Assigns, for ever thereafter, from Time to Time, as it becomes necessary, to enter upon the Lands through which such Drains have been opened or Improvements made, for the Purpose of clearing out, scouring, and otherwise maintaining the same in a due State of Efficiency; and if such Drains

or Improvements in Drains are not kept so cleared out, scoured, and maintained in a due State of Efficiency, the Owner or Occupier for the Time being of the Lands through or on which such Drains or Improvements in Drains are made may clear out, scour, and otherwise maintain the same in a due State of Efficiency, and recover the Expenses incurred in such clearing out, scouring, or Maintenance, in a summary Manner, as herein-before provided, from the Applicant or Applicants, his or their Heirs or Assigns.

Power of adjoining Owner to divert Drains.

**77.** The Owner for the Time being of the Land through or in which any Drain may be opened or Improvements in Drains made, in pursuance of Part Two of this Act, may fill up, divert, or otherwise deal with such Drains or Improvements in Drains, on condition of first making and laying down in lieu thereof Drains equally efficient; and any Dispute as to the Efficiency of Drains so laid down shall be decided by Two or more Justices assembled in Petty Sessions.

Penalty for obstructing or injuring Drains.

**78.** Any Person who wilfully obstructs any Person making any Drains or Improvements in Drains, in pursuance of Part Two of this Act, and any Person who wilfully dams up, obstructs, or in any way injures any Drains or Improvements in Drains so opened or made, shall for each Offence incur a Penalty not exceeding Ten Pounds, to be recovered in a summary Manner, as herein-before provided.

Costs of Application.

**79.** All Costs, Charges, and Expenses reasonably incurred by the adjoining Owner in respect of any Application made in pursuance of this Part of this Act shall be defrayed by the Applicant or Applicants.

Provision in case of Change of natural Outfall.

**80.** Where any Person is desirous, in pursuance of this Part of this Act, of constructing any Drain by means whereof any Brook, River, or other natural Watercourse will be diverted from its ordinary Channel into any other Brook, River, or natural Watercourse, he shall cause a Copy of the Notice hereby required to be served on the adjoining Owner to be published by Advertisement once at least in each of Three successive Weeks in some local Newspaper circulating in the District in which the Drain proposed to be constructed is situate, and to be served in manner in which Notices are required to be served under the First Part of this Act (where no special Mode of Service is prescribed) on all Owners of Land abutting upon the Brook, River, or other natural Watercourse into which the Diversion is made, and situate within Four Miles of the Point of Junction, and shall deposit a Copy of the Map hereby required to accompany the Notice served on the adjoining Owner with the Clerk of the Peace of the County, Riding, or Division of a County wherein the proposed Drain

Drain is situate; and it shall be lawful for any Person, being the Owner of Land capable of being injured by the proposed Drain, within Eight Weeks after the First Notice of the proposed Drain appears in the Newspaper, to serve Notice that he apprehends Injury from such Drain on the Person proposing to make the same, and thereupon such Owner shall be deemed to have dissented, and shall be entitled to the same Rights and Privileges under this Part of this Act as if he were the adjoining Owner.

Appointment of Arbitrators.

**81.** Where any Question is by this Part of this Act to be decided by Justices or Arbitration, at the Option of an adjoining Owner, Occupier, or other Person interested, Two Arbitrators shall be nominated, one by the Applicant or Applicants, and the other by such adjoining Owner, Occupier, or other Person interested, as the Case may be; and in default of such adjoining Owner, Occupier, or other Person interested in nominating an Arbitrator, it shall be lawful for any Two or more Justices in Petty Sessions, after Notice to such adjoining Owner, Occupier, or other Person, to nominate such Arbitrator; and the Arbitrators shall decide the several Questions mentioned in this Part of this Act, and shall have Power, in case of Disagreement, to call in an Umpire; and such Arbitrators and Umpire, as the Case may be, shall make their Award on the said several Matters, and such Award shall be transmitted and dealt with in all respects as is herein-before provided in the Case of the Decision of the Justices upon the several Questions aforesaid.

Powers of Part II. of Act cumulative.

**82.** All Powers given by Part II. of this Act shall be deemed to be in addition to and not in derogation of any other Powers now existing by Common Law, or under any Act or Acts of Parliament heretofore passed, and now remaining unrepealed; and every Person may exercise such other Powers in the same Manner as if this Act had not passed, anything herein contained notwithstanding.

## SCHEDULE referred to in the foregoing Act.

### PART I.

*Rules as to Election of Members of Drainage Boards.*

The Chairman of the Board of the previous Year, or some Person appointed by him, shall be the Returning Officer.

If at any Time, from any Default of such Chairman as aforesaid, or from any Reason, there is no Returning Officer, or such Returning Officer is unwilling or unable to act, the Members of the Board of the preceding Year may appoint a Returning Officer in his Stead.

The Election of new Members shall take place on the first Thursday, or on such other Day as may be appointed by the Board, in September in every Year excepting the Year in which the Order in Council is made.

On every Occasion of the Election of new Members of the Board the Returning Officer shall convene a Meeting of the Electors for the Purpose of such Election, and shall give Notice of such Meeting, and of the Time and Place at which it is to be held—

By Advertisement in some One or more of the Newspapers circulating in the District;

By causing a Copy of such Notice to be affixed to the outer Door of the principal Office of the Board.

The Returning Officer shall preside and regulate the Proceedings at such Meeting.

At any such Meeting as aforesaid any qualified Person or Persons may, if he or they consent thereto, be nominated by any Elector, and seconded by any other Elector, as a Member or Members of the Board, in the Place of any retiring Member or Members.

If more Candidates are proposed than the Number to be elected, the Returning Officer shall, if required by the Electors at such Meeting, forthwith, in such Manner as shall appear to him most convenient, ascertain the Number of Votes for the Candidates who shall have been so proposed, and the Election of such Candidates shall be determined by the Majority of such Votes; but if no more Candidates are proposed than the Number to be elected, or if the Electors do not require the Votes to be taken, then a Declaration by the Returning Officer that the Candidates are elected Members of the Board shall be Evidence of the Fact.

For

For the Purpose of ascertaining the Votes of the Electors, the Returning Officer may, if he thinks fit, or if it shall be necessary or expedient, hold an adjourned Meeting of the Electors, at such Time and Place as he may fix at such First Meeting, and the Time and Place of such adjourned Meeting shall be publicly announced by him at the First Meeting, to be held as before provided.

Votes may be given either personally or by Proxy. A Proxy shall be appointed under the Hand of the Appointer, but he shall not be entitled to vote unless the Instrument appointing him was deposited at the Office of the Board Seven Days before the Day of Election at which such Proxy proposes to vote; but no Person shall be appointed a Proxy unless he is a qualified Elector.

The Returning Officer shall cause to be entered in the Polling Books to be kept for that Purpose the Name and Address of every Voter, and the Manner in which he votes.

After the Election the Returning Officer shall as soon as possible publish the Names of the Candidates elected as herein mentioned,—

(1.) By Advertisement in some One or more Newspaper or Newspapers circulating in the District:

(2.) By affixing a List of such Candidates to the outer Door of the principal Office of the Board.

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## PART II.

### *Rules as to Proceedings of Drainage Boards.*

1. A Drainage Board shall meet together for the Despatch of Business, and shall from Time to Time make such Regulations with respect to the summoning, Notice, Place, Management, and Adjournment of such Meetings, and generally with respect to the Transaction and Management of Business, as they think fit, subject to the following Condition:—That

(*a.*) No Business shall be transacted at any Meeting unless at least Three Members are present at the Commencement and Close of such Business:

(*b.*) No Order involving an Expenditure of more than One hundred Pounds shall be made by the Board unless at the least One Month's previous Notice, specifying the Work to be undertaken or the other Matter to which such Order relates, and naming a Day on which a Meeting of the Board is to be held for considering the Matter to be ordered, has been sent by Circular to each Member of the Board:

(*c.*) All Questions shall be decided by a Majority of Votes of the Members present:

(*d.*) The Names of the Members present, as well as of those voting upon each Question, shall be recorded.

2. The Board shall, at their First Meeting, and afterwards from Time to Time at their first Meeting after each annual Election, appoint One of their Number to be Chairman for the Year following such Choice.

3. If any casual Vacancy occurs in the Office of Chairman, the Board shall, as soon as they conveniently can after the Occurrence of such Vacancy, choose some Member of their Number to fill such Vacancy; and every such Chairman so elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be so elected would have been entitled to continue if such Vacancy had not happened.

4. If at any Meeting the Chairman is not present at the Time appointed for holding the same, the Members present shall choose some One of their Number to be Chairman of such Meeting:

5. In case of an Equality of Votes at any Meeting, the Chairman for the Time being of such Meeting shall have a Second or Casting Vote.

6. The Board may delegate any of their Powers to Committees, consisting of such Member or Members of their Body as they think fit. Any Committee so formed shall, in the Exercise of the Powers delegated, conform to any Regulations that may be imposed on them by the Board.

7. A Committee may elect a Chairman of their Meetings. If no such Chairman is elected, or if he is not present at the Time appointed for holding the same, the Members present shall choose One of their Number to be Chairman of such Meeting.

8. A Committee may meet and adjourn as they think proper. Questions at any Meeting shall be determined by a Majority of Votes of the Members present; and in case of an equal Division of Votes, the Chairman shall have a Second or Casting Vote.

9. The Board shall cause Minutes to be made, in Books provided for that Purpose,—

(1.) Of all the Appointments of Officers made by the Board;

(2.) Of the Names of the Members present at each Meeting of the Board and Committees of the Board;

(3.) Of all Orders made by the Board and Committees of the Board; and,

(4.) Of all Resolutions and Proceedings of Meetings of the Board and of Committees of the Board.

And any such Minutes as aforesaid, if signed by any Person purporting to be the Chairman of any Meeting of the Board or Committee of the Board, shall be receivable in Evidence without any further Proof.

# Drainage (Ireland).

A

# BILL

[AS AMENDED BY THE SELECT COMMITTEE]

For the Amendment of the Law relating to the Drainage of Land in Ireland.

*(Prepared and brought in by Colonel Dickson, Colonel French, and Mr. Pope Hennessy.)*

*Ordered, by* The House of Commons, *to be Printed,* 2 *June* 1862.

[Bill 145.]

*Under 5 oz.*

A

# BILL

INTITULED

An Act to authorize the Completion, after His Royal Highness Albert Edward Prince of Wales shall attain the Age of Twenty-one Years, of Arrangements commenced during his Minority, under the Provisions of an Act passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her Majesty Queen Victoria, intituled "An Act to enable the Council "of His Royal Highness Albert Edward Prince "of Wales to sell and exchange Lands and "enfranchise Copyholds Parcel of the Posses- "sions of the Duchy of Cornwall, to purchase "other Lands; and for other Purposes."

WHEREAS by an Act passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled "An Act to enable the "Council of His Royal Highness Albert Edward Prince of Wales "to sell and exchange Lands and enfranchise Copyholds Parcel of "the Possessions of the Duchy of Cornwall, to purchase other Lands; [Bill 178.] "and

Preamble.

7 & 8 Vict. c. 65.

# Duchy of Cornwall Lands (Completion of Arrangements).

A

# BILL

INTITULED

An Act to authorize the Completion, after His Royal Highness Albert Edward Prince of Wales shall attain the Age of Twenty-one Years, of Arrangements commenced during his Minority, under the Provisions of an Act passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her Majesty Queen Victoria, intituled "An Act to enable the Council "of His Royal Highness Albert Edward Prince of Wales to sell and "exchange Lands and enfranchise "Copyholds Parcel of the Possessions of the Duchy of Cornwall, "to purchase other Lands; and for "other Purposes."

(*Brought from the Lords* 24 *June* 1862.)

*Ordered, by* The House of Commons, *to be Printed*, 30 *June* 1862.

[Bill 178.]

*Under* 1 *oz.*